



Audit of Immigration Enforcement

December 6, 2016

PROTECTION • SERVICE • INTEGRITY

Canada

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1.0 INTRODUCTION

1. One of the responsibilities of the Canada Border Services Agency (CBSA) is the enforcement of the *Immigration and Refugee Protection Act* (IRPA). Through the Immigration Enforcement program, the CBSA investigates, detains, monitors, and/or removes inadmissible persons from Canada.¹ Foreign nationals and permanent residents of Canada believed to be inadmissible may be investigated and have a report written against them by a CBSA Inland Enforcement Officer (IEO).
2. Depending on the type of inadmissibility, the merits of the report are reviewed by either a Minister's delegate or an independent decision maker at the Immigration and Refugee Board of Canada (IRB), where a CBSA Hearings Officer represents the Minister of Public Safety or the Minister of Immigration, Refugees and Citizenship Canada (IRCC). Subsequent to this review, a removal order may be issued against the foreign national or permanent resident in question.
3. The CBSA may detain and/or monitor the conditions of release of an individual where there are reasonable grounds to believe the individual is inadmissible and where the individual is a danger to the public, poses a flight risk or where their identity is not established. Under section 57 of IRPA, the IRB must review the reasons for immigration detention within 48 hours after a permanent resident or a foreign national is taken into detention, or without delay afterward, and at least once during the seven days following the review, and at least once during each 30-day period following each previous review.²
4. The Immigration Enforcement (IE) program is one of the Agency's Enforcement and Intelligence programs, and is also known as "Inland Enforcement." Inland Enforcement activities (or sub-programs) include Immigration Investigations, Detentions, Hearings, and Removals, which are part of a larger immigration enforcement continuum depicted below. Descriptions of each of the inland enforcement activities are provided in Appendix C.



5. For fiscal year 2015-16, the IE program was allocated a budget of \$145M.³ The IE program is delivered by regional Inland Enforcement Offices with the support of the Operations Branch Enforcement and Intelligence Operations Directorate (EIOD). The Programs Branch Enforcement and Intelligence Programs Directorate (EIPD) is responsible for program policy, program management,

¹ Under sections 34-42 of IRPA, a person may be inadmissible to Canada for reasons of security; human or international rights violations; criminality (including serious and organized criminality); dangers to public health or public safety or because they might reasonably be expected to cause excessive demands on health or social services; financial reasons; misrepresentation; non-compliance; or if they are accompanying an inadmissible family member.

² Source: IRPA <http://laws-lois.justice.gc.ca/eng/acts/I-2.5/page-11.html#h-30>

³ Source: CAS data from January 11, 2016 reported in E&I Functional Integrated Business Plan⁴ What We Do. <http://www.cic.gc.ca/english/departement/what.asp>



performance reporting and transformation, and business system integration. Descriptions of the activities performed by EIOD and EIPD are also included in Appendix C.

6. IRCC is an important partner, responsible for screening and approving immigrants, foreign students, visitors and temporary workers who help Canada's social and economic growth; resettling, protecting refugees; and managing access to Canada to protect the security and health of Canadians and the integrity of Canadian laws.⁴
7. Immigration detentions are reviewed and decided by the IRB, and closely monitored by the United Nations High Commissioner for Refugees (UNHCR), and the Canadian Red Cross Society. The UNHCR has a supervisory role under article 35 of the 1951 Convention relating to the status of refugees. In 2006, the CBSA established a new Memorandum of Understanding with the Canadian Red Cross Society to reflect the transfer of enforcement of the IRPA from the former Citizenship and Immigration Canada to the CBSA. The agreement mandates the Red Cross to monitor the conditions of persons detained under IRPA and compliance with all applicable domestic standards and international instruments to which Canada is a signatory.
8. The CBSA has developed a National Detention Strategy which includes eight initiatives aimed at addressing program delivery inconsistencies, stakeholder and client concerns, external pressures and resource constraints.⁵ Some parts of the strategy have been implemented, including national detention standards and a national risk assessment methodology for detention. In August 2016, the Agency secured Treasury Board funding for Immigration Holding Centre infrastructure and for expanding the availability of alternatives to detention through the National Immigration Detention Framework. The funding also provides for increased access to medical and mental health services to detainees within Immigration Holding Centres.
9. Major changes faced by the program have included new legislation⁶ which put more emphasis on the faster removal of criminals and failed refugee claimants, and the implementation of a new information system in 2015. The CBSA now uses the IRCC Global Case Management System (GCMS) and the National Case Management System (NCMS) for managing immigration case files. GCMS replaced the Field Operating Support System (FOSS), a legacy mainframe document management system.
10. Previous audits and evaluations have examined various aspects of the IE program or sub-programs and have highlighted the following key recommendations:
 - A CBSA evaluation of Immigration Investigations in September 2015 included recommendations to improve training, the development of standard operating procedures to improve consistency in the documentation of referrals, and the prioritization and tracking of enforcement cases.

⁴ What We Do. <http://www.cic.gc.ca/english/department/what.asp>

⁵ The eight initiatives of the National Detention Strategy are i) national detention standards ii) a national risk assessment methodology iii) detention training iv) alternatives to detention v) engagement of partners vi) infrastructure replacement vii) internal efficiencies viii) provincial detention arrangements.

⁶ *Protecting Canada's Immigration System Act (2012), Balanced Refugee Reform Act (2010) and the Faster Removal of Foreign Criminals Act (2013).*



- An evaluation of Detentions and Removals in November 2010 recommended the possible expansion of alternatives to detentions, as well as the consideration of alternative service delivery models for removals and alternative service delivery arrangements at Immigration Holding Centres. The evaluation recommended improved guidance on the handling of detainees and addressing training and performance gaps for IEOs and Border Services Officers (BSOs). In addition, the evaluation recommended enhancing the collection of performance and financial information.
- The May 2008 Audit of Detentions and Removals by the Office of the Auditor General also recommended improving the collection and analysis of data as well as the development of suitable policies and procedures to ensure that risks, situations, and individuals are treated in a consistent manner.

2.0 SIGNIFICANCE OF THE AUDIT

11. This audit is of interest to management due to the program's highly complex, dynamic and costly operating context and this represents the first internal audit of the management control framework for the IE program. The program is also high profile, receiving frequent media⁷ and stakeholder attention, and ineffective internal controls would create a reputational risk for the Agency.
12. The audit objective was to determine the extent to which program governance, management processes, practices and internal controls are in place and support the achievement of program objectives. The audit examined the overall program and focussed on program governance, resource management, monitoring and reporting, organizational and management structures, and policies and procedures in support of program delivery. The audit methodology and criteria are described in Appendix A.

3.0 STATEMENT OF CONFORMANCE

13. The audit conforms to the *Internal Auditing Standards for the Government of Canada*, as supported by the results of the quality assurance and improvement program. The audit approach and methodology followed the *International Standards for the Professional Practice of Internal Auditing* as defined by the Institute of Internal Auditors and the *Internal Auditing Standards for the Government of Canada*, as required by the Treasury Board's *Policy on Internal Audit*.

4.0 AUDIT OPINION

14. The management control framework for the Immigration Enforcement Program is in place, however, certain aspects require strengthening, including governance, business and strategic planning, and HR planning. In addition, the program could benefit from optimizing the capacity and coordination of

⁷ Media attention has included recent deaths in detention and criticisms of lengthy detentions giving rise to detainee hunger strikes.



resources at National Headquarters (NHQ). The program should continue improving information for decision making, updating policies and procedures, and implementing the National Detention Strategy.

5.0 KEY FINDINGS

15. A governance structure for the Immigration Enforcement program is in place, and includes several committees. The governance structure and processes could be improved to more effectively escalate and resolve program risks and issues.
16. Program performance reporting is occurring on a formal and informal basis. Reporting on key program management elements (i.e., human resources, program budget, risk management) has been recently included as part of the Program Health Checks. The Program Health Checks provide information on resource allocation levels and expenditures across NHQ and the regions, highlight program risks and mitigation strategies, provide updates on priorities and commitments, and provide the status of the program's ability to meet performance.
17. Data integrity challenges are making it difficult for the program to produce accurate, reliable and timely program performance information. The data integrity issues stem from a variety of sources that the program expects to address through introducing data and quality control standards. The Program Health Check for the Removals sub-program indicates a commitment to implement a quality assurance program for improving data integrity and file management.
18. An overall Human Resources (HR) strategy for the IE program has not been developed. The program is limited in the extent to which it can draw officers from the BSO feeder group, however Hearings Officers are able to be sourced outside of the Officer Induction Training Program (OITP). As a result, regions have had to rely on short-term assignments. Without a staffing strategy in place, the IE program may continue to face challenges in having a full complement of qualified officers to support program delivery.
19. National Training Standards have been developed for IE and Hearings Officers, however, the identified core training is delivered infrequently and some specialized training needs are not being met. The program is unable to demonstrate that all employees exercising the Minister's Delegate authority have completed the core mandatory training due to inconsistent tracking, particularly for legacy IRCC employees.
20. Current limitations of CBSA costing and forecasting tools and processes make it difficult for program areas, including Immigration Enforcement, to determine the expected level of performance that can be achieved with the amount of resources that are allocated, or vice versa, how much needs to be allocated to achieve a specific program objective. The Agency is undergoing a financial management transformation initiative which is expected to help improve financial resource management processes.
21. The IE program is managed, delivered and supported through a complex array of organizational and management structures across the regions and at NHQ. Regional Inland Enforcement Offices are structured based on their respective operating contexts and resource levels. At NHQ, the program is managed and supported primarily by Programs and Operations Branches. As both branches are



involved in aspects of program monitoring and reporting and in developing procedures and providing guidance, it would be beneficial to clarify the respective roles and responsibilities of each branch.

22. Programs Branch has developed and implemented a methodology to review the new “National Risk Assessment for Detention” (NRAD) process. Having this type of program monitoring in place is consistent with the principles for effective internal control. Through this monitoring, the program has identified areas for improving compliance with key elements of the NRAD policy and procedures that would promote greater consistency in the treatment of detainees across regions.

6.0 SUMMARY OF RECOMMENDATIONS

23. The audit makes four recommendations to:

- Develop and communicate a program governance authority matrix for the Immigration Enforcement Program that clearly describes the role and types of decisions/approvals or guidance that each committee is responsible for and continue to improve the quality of information for decision-making.
- Develop an HR strategy for the Immigration Enforcement Program that includes enhancing existing staffing mechanisms to meet operational needs and ensuring the delivery of core and specialized training.
- Explore options and formally agree on the most effective way to optimize the capacity and coordination of Immigration Enforcement Program resources at NHQ.
- Implement identified improvements to the National Risk Assessment for Detention process and continue evolving the monitoring methodology.

7.0 MANAGEMENT RESPONSE

Management Response:

The Programs Branch agrees with the recommendations provided by the Internal Audit and Program Evaluation Directorate. Work is already underway on all recommendations, with the last one being completed by July 2017.



8.0 AUDIT FINDINGS

8.1 Governance and Information for Decision-Making

Audit Criteria:

- *Oversight bodies provide strategic direction and monitoring of the program to ensure the achievement of objectives.*
- *Useful and relevant key performance indicators have been established in pursuit of program objectives.*
- *The program has effective processes to provide senior management and oversight bodies with sufficient, relevant, accurate and timely information to support decision-making.*

Strategic direction and monitoring by oversight bodies

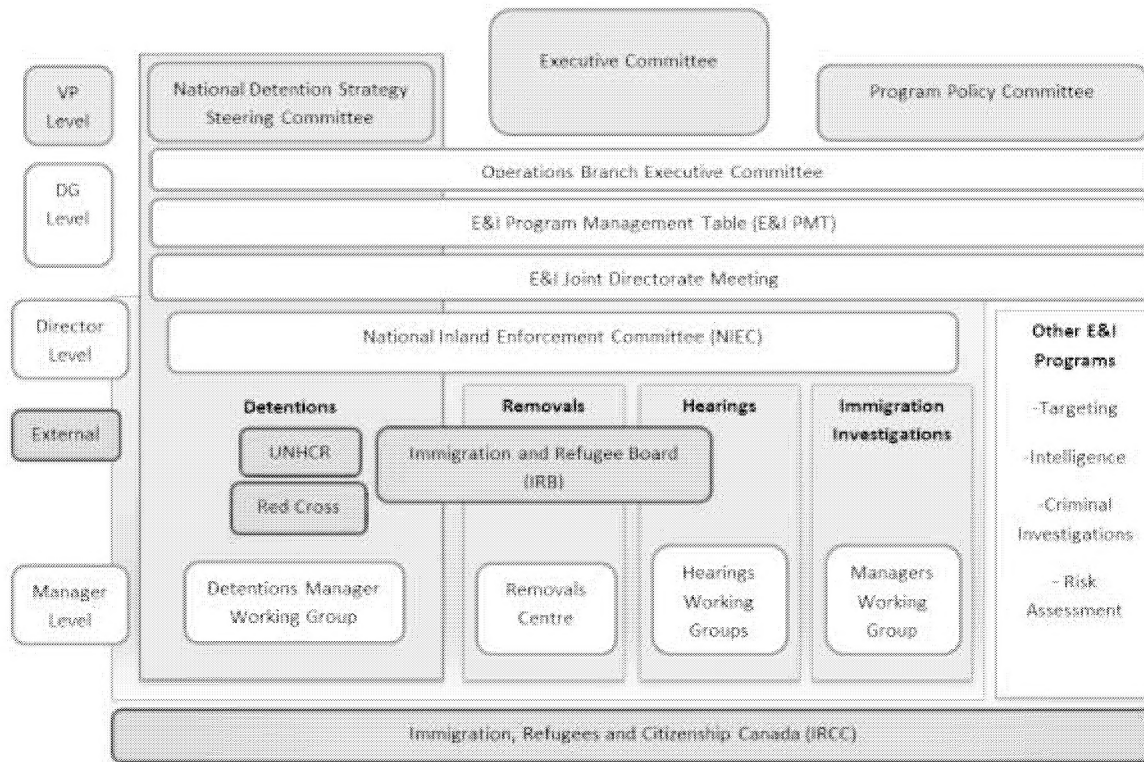
24. Governance is defined as “the combination of processes and structures implemented to inform, direct, manage, and monitor the activities of the organization toward the achievement of its objectives”.⁸ Effective governance ensures and monitors that processes or controls are in place to prevent, detect and manage events that could have a negative impact on the achievement of organizational strategies, goals and objectives, operational efficiency and effectiveness, financial reporting, or compliance with applicable laws and regulations.
25. The CBSA IE program is a high profile program that receives a lot of attention from the media and is subject to external oversight. Effective governance is key to ensuring the achievement of program objectives while protecting the Agency from reputational risks.
26. As previously noted, independent oversight over immigration detention is provided by external organizations such as the IRB, the Canadian Red Cross Society, and the UNHCR. The Red Cross produces an annual report on its detention monitoring activities, which includes recommendations for the CBSA to address. The CBSA also responds to observations of the UNHCR that are provided on a regular basis. The CBSA has also implemented its own Quality Assurance Program to monitor the extent to which National Detention Standards are being met in CBSA Immigration Holding Centres.
27. A CBSA governance structure for the IE program is in place and includes the National Inland Enforcement Committee (NIEC), the Enforcement and Intelligence Program Management Table (E&I PMT), and the National Detention Strategy Steering Committee (NDSSC). There are also manager level working groups such as the Hearings Manager Committee, Hearings Working Groups, Removals Centre and Investigations Management Committee. In addition, Joint Directorate Meetings are held between Programs and Operations E&I Divisions and there is the Operations Branch Executive Committee (OBEC) both of which include regional representation. However, these were not listed as part of the Enforcement and Intelligence National Governance Structure depicted in the E&I PMT

⁸ Source: International Standards for the Professional Practice of Internal Auditing (Practice Advisory 2110-1)



Terms of Reference and no documentation was provided to describe their role in the governance of the program.

Diagram 1: IE Program Oversight and Governance



28. The NIEC is a director-level meeting co-chaired by the directors of EIPD and EIOD and includes a regional director from each region. The mandate of NIEC is to act as consultative and advisory body, providing direction on program development, defining strategic priorities, developing resourcing strategies and reviewing policy and program issues to ensure vertical and horizontal alignment for national consistency and to ensure the program is well-positioned to deliver its mandate. The Terms of Reference indicate that NIEC meetings shall be held quarterly, but records of decision provided indicate that the committee was only meeting twice per year.
29. The Enforcement and Intelligence (E&I) PMT Terms of Reference states that the mandate is to provide leadership on the Enforcement and Intelligence program strategic policy direction, priority setting, performance measurement, risk identification and mitigation strategies, workforce training and learning requirements and making financial recommendations. Specifically, the E&I PMT is to provide functional guidance on eight Enforcement and Intelligence Programs, one of which is the Immigration Enforcement program. The E&I PMT meets monthly, is chaired by the Director General of EIPD, and includes standing members from all branches of the CBSA, with required participants from Comptrollership and Corporate Affairs. A review of E&I PMT records of decision indicates that the committee discusses IE program performance data and impediments and risks related to human resources and program funding.



30. The NDSSC is a monthly teleconference co-chaired by the Associate Vice Presidents of Programs and Operations Branches and includes the Vice President of Comptrollership, the Regional Directors General for the Pacific, Quebec and Greater Toronto Area regions, and senior management of EIPD and EIOD. The committee is mandated to lead the development and implementation of the national detention strategy through having informed discussions and “agile decision-making” to address the challenges, risks and opportunities associated with achieving the objectives of the strategy. The audit team reviewed meeting agendas and records of decisions from November 2014 to March 2016, and this review indicated that typically, meetings occurred on a monthly basis. Most meetings included updates on procurement for guard and medical services, updates on provincial memoranda of understanding, and discussion on detention funding issues and the development of the detentions business case. The governance of the NDSSC helped the Agency secure funding for the implementation of the National Detention Strategy. The program could learn and build upon this success to support the achievement of objectives for the other Immigration Enforcement sub-programs.
31. Review of the records of decision for the NIEC, E&I PMT and NDSSC shows that program monitoring is occurring. Updates are regularly provided to the committees on whether the program is meeting Removals targets, the status of the National Detention Strategy, program funding, and the need to develop certain policies or procedures. However, a review of correspondence, records of decision, and interviews with senior management suggested the established governance structure is not always working effectively to escalate and resolve issues. This may be as a result of a lack of clarity around which committees are decision-making bodies versus consultative and/or advisory bodies and insufficient vertical and horizontal communication between committees. Further, additional regional representation on the E&I PMT and improved attendance of standing committee members could lead to more strategic discussion and effective decision-making.
32. The Immigration Enforcement program, with each of its different sub-programs is complex and subject to continual scrutiny, evolving and dynamic legislation and jurisprudence. Effective governance for the program is fundamental for providing clear and strategic direction on objectives and priorities, and to ensure that operational plans, resources and budgets are reviewed on a regular basis for the achievement of program objectives.

Information for decision-making

33. Senior management and oversight bodies must receive sufficient, relevant, accurate, and timely information on program results to ensure changes or risks to program delivery are proactively reviewed and considered in decision-making. This is supported by the establishment of useful and relevant key performance indicators that are aligned with and measure achievement of program objectives.
34. The Enforcement and Intelligence Program maintains a performance measurement registry, in addition to a performance management framework (PMF) specific to inland enforcement. The PMF and registry outline the program performance indicators, outputs, and key activities to be conducted by regions and NHQ to achieve priorities. The indicators and targets focus largely on outputs (e.g., 80% removal commitment for failed refugee claimants within 12 months of a negative refugee determination, percentage of investigations finalized within one year, and percentage of high-risk detainees). The



focus on outputs does not reflect the varying workloads, levels of effort, and resources involved in more complex cases, nor does it consider the impediments leading up to a removal.⁹

35. The Corporate Affairs Branch is currently helping the IE program strengthen the draft logic models for its sub-programs. It is expected this will result in updates to the PMF and improvements to the appropriateness and relevance of the associated indicators and targets. Further, the Programs Branch has committed to identifying new, more appropriate indicators for hearings and investigations in the 2016-17 Report on Plans and Priorities.
36. A few of the performance indicators outlined in the PMF are reported publicly on an annual basis through the DPR and Report on Plans and Priorities (RPP) and through the quarterly Agency Performance Summary (APS) reports, Joint Performance Report with IRCC, and the Performance and Service Standards Report (PSSR).
37. APS reports are currently the mechanism most widely used by senior management and Agency oversight bodies to track progress of the IE program. However, APS reports do not include information on all key program management elements, including human resources, program budget, resource allocations, and risk management. Going forward, APS reports are being revised to resemble more of a balanced scorecard¹⁰ and the Programs Branch has introduced “Program Health Checks” (with the Removals program as a pilot) to provide governance committees with more program management information for decision-making.¹¹ The Program Health Checks are intended to provide more detailed information on resource allocation levels and expenditures across NHQ and the regions, highlight program risks and mitigation strategies, provide updates on priorities and commitments, and provide the status of the program’s ability to meet performance targets.¹²
38. Data integrity challenges are currently making it difficult for the program to produce accurate, reliable and timely program performance information. The data integrity issues stem from a variety of sources, including: insufficient training on case management systems and a lack of national guidance/standard operating procedures for systems use resulting in inconsistent data entry/extraction across regions; insufficient integration between key case management systems; and inadequate reporting functionality in case management systems resulting in the need to manually track and validate information. Similar challenges are encountered when management requires detailed data on the amount of program resources that have been allocated and expended. The Removals Program Health Check indicates a commitment to implementing a quality assurance program for improving data integrity and file management.¹³ Further, the Performance Reporting Unit plans to implement data and quality control

⁹ Impediments to removal include constraints in procuring travel documents, the person may not appear for removal, or there may be an unexpected IRB or Ministerial decision to “stay” a removal.

¹⁰ Balanced scorecard is a strategic planning and management system that is used to monitor an organization’s performance against strategic goals. A scorecard includes strategic financial and non-financial performance measures to give management a “balanced” view of organizational performance.

¹¹ Source: E&I PMT Record of Decision

¹² Source: Removals Program Health Check March 2016

¹³ Source: Removals Program Health Check March 2016



standards, and the Programs Branch is working with policy and operational areas to identify and prioritize systems related issues, change requests, and enhancements to functionalities.

39. Financial reporting at the overall program level (for Enforcement and Intelligence) was found to be reliable, with a variance of less than 2% between what was reported in the Departmental Performance Report (DPR) and what was extracted from the CBSA Corporate Administration System for fiscal years 2013-14 and 2014-15.
40. Efforts are ongoing to improve the information provided to senior management and oversight bodies for decision making. Initiatives to improve performance indicators and targets should continue to ensure data collected is useful and relevant and effectively measures the achievement of program objectives. Initiatives to address data quality issues should also move forward to ensure the processes needed to provide senior management with quality performance information are in place and effective.

Recommendation 1:

The Vice-President of the Programs Branch, in collaboration with Operations Branch, should develop and communicate a program governance authority matrix for the Immigration Enforcement Program that clearly describes the role and types of decisions/approvals or guidance that each committee is responsible for and continue to improve the quality of information for decision-making.

MANAGEMENT RESPONSE	COMPLETION DATE
The Programs Branch agrees with the recommendation. As such, the Enforcement and Intelligence Programs will develop a streamlined matrix that depicts accountabilities and sets out the decision-making process for each of the governance committees with the view to ensuring the transparency and accountability of these structures.	January 2017

8.2 Resource Management

Audit Criteria:

- *Human Resource plans are in place to attract, develop and retain sufficient competent Immigration Enforcement staff to support operational objectives.*
- *Financial resource management supports the achievement of program objectives.*

41. Sound management of people and financial resources is an expectation for public sector management and both are critical to achieving program performance.¹⁴

¹⁴ Treasury Board Secretariat <http://www.tbs-sct.gc.ca/hgw-cgf/oversight-surveillance/maf-crg/ap-pe-eng.asp>



Human Resource Management

42. Human Resources (HR) planning is an essential and mandatory process that facilitates the identification of current and future HR needs in support of meeting the Agency's mission, mandate and objectives.¹⁵ An HR plan or strategy should be documented and communicated and include an analysis of current and future resource and competency needs; an analysis of key positions and succession planning; and a training and development plan.¹⁶
43. An overall human resource plan or strategy has not been created specifically for the Immigration Enforcement Program, although a staffing strategy for the Removals sub-program was created in 2014.¹⁷ The Hearings Program Review that was completed in February 2016 by the Programs Branch also included several staffing-related action items including the development of a standard job description for Hearings Advisors and the need to assess the impact of IRB hiring plans and processes on the CBSA.¹⁸
44. In 2013, the CBSA established the Officer Induction Training Program (OITP) which includes a national selection process for hiring recruits. On an annual basis, the OITP is funded to recruit and train approximately 290 entry level land and air BSO positions. The IE program is limited in the extent to which it can draw IEOs from the frontline BSOs, though Hearings Officers can be recruited through other selection processes due to the need for candidates with legal knowledge and expertise. As a result, regional Inland Enforcement offices have had to rely on short-term, determinate strategies (e.g., assignments) to alleviate capacity issues.
45. Establishing a staffing strategy or HR plan for the IE program that considers other relevant plans (i.e. training and development) will allow for proactive alignment of priorities and development of an appropriate national selection process. The strategy should also include professional development and retention strategies. Without this, the IE program may continue to be limited in its capacity to leverage the BSO feeder group, which in turn may prevent regions from having a full complement of qualified officers to support program delivery or to enable succession planning.
46. Training and professional development enhances the skills, capabilities, and knowledge of employees within a program area. Identifying training and development needs and activities as part of HR planning leads to quality performance and improves employee morale, thereby contributing to overall retention rates. As part of succession planning processes, training and professional development ensures the availability of experienced and capable employees to assume key management positions.¹⁹

¹⁵ CBSA Staffing Guide (currently under review)

¹⁶ March 2011 Office of the Comptroller Audit Criteria Related to the Management Accountability Framework (PPL-1).

¹⁷ Source: Regional Removals Staffing Strategy was developed to enable the program to deliver on the timely removal of failed refugee claimants which was committed to as part of the *Protecting Canada's Immigration System Act* which came into effect in December 2012.

¹⁸ Source: Hearings End-to-End – summary of proposed activities in response to findings

¹⁹ Source: Treasury Board Secretariat, Core Management Controls (November 2007).



47. National training standards have been established for IEOs and for Hearings Officers.²⁰ In addition, the Training and Development Directorate of the Human Resource Branch has a plan for the delivery of Enforcement and Intelligence training. The training needs identified in this plan are extensive and are not fully funded. The audit noted that the provision of core training is infrequent and there are limited opportunities for the provision of specialized training (e.g. Refugee Appeal Division training for Hearings Officers, training on executing residential arrest warrants, and GCMS training specifically tailored for inland enforcement).
48. IEOs are required to successfully complete the Minister's Delegate Review (MDR) and inland enforcement management must complete the Immigration for Chiefs and Directors courses prior to performing Minister's Delegates functions and reviews under IRPA. An Operational Bulletin was sent in December 2015 to remind field staff of this mandatory training requirement. Audit testing validated that within the last few years, an increasing number of IEOs have completed the newly developed web-based version of the courses. It could not be determined which IEOs may have completed previous formats of the training because the Agency did not consistently track this information for legacy IRCC employees. Moving forward, the IE program should consider regularly tracking the completion of this mandatory training to ensure IEO activities are being executed with authority.

Financial Resource Management

49. Financial management activities include those of planning, budgeting, accounting, reporting, control, oversight, analysis, decision support/advice, and financial systems.²¹ Sufficient resources and effective management is required to support the achievement of program objectives or goals.
50. At the beginning of each fiscal year, initial budget allocations are set by the Comptrollership Branch for each branch of the CBSA.²² Each branch is subsequently responsible for distributing their respective budgets down to lower reporting levels, which are comprised of Fund Centres at the level of Directors General and Regional Directors General who are responsible for managing and delivering CBSA programs, program sub and sub-sub activities (PSSAs).

Branch Level	Programs Branch, Operations Branch & Regions
Program Level	Enforcement and Intelligence
Sub-Program	Immigration Enforcement
PSSAs	Detentions, Removals, Immigration Investigations, Hearings

²⁰ Sources: National Training Standards for Inland Enforcement Officers; National Training Standards for Hearings Officers

²¹ Source: Treasury Board Secretariat (TBS) Policy on Internal Control <http://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=15258>

²² Source: CBSA Budgeting Guide, draft March 2016.²³ "A Renewal of Financial Management, Budget Allocation and Budget Management – An information Brief" for 2016-17 approach



51. Limited information was available on the process to allocate resources to the program and operational areas, however the E&I Functional Integrated Business Plan 2016-19 notes that program budgets are largely based on historical budget allocations and expenditures. It is difficult to determine the level of performance the program is achieving each year in relation to the funding levels. Although resource allocation models have been developed for each of the Immigration Enforcement sub-programs, these models do not identify the various factors that make up the cost to deliver the program; instead they divide program spending by the volume of outputs. A simple forecasting of the volumes of outputs (enforcement actions) does not take into account the changing composition of the working inventories and the differing levels of effort for immigration enforcement cases.
52. Current limitations of CBSA costing and forecasting tools and processes make it difficult for program areas, including Immigration Enforcement, to determine the expected level of performance that can be achieved with the amount of resources that are allocated, or vice versa, how much needs to be allocated to achieve a specific program objective. At the time of the audit, the Agency was developing a cost factor manual to support the standardization of operating costs for the Agency's core activities. Once this new costing methodology is validated and finalized, it could be used as the basis for improved program resource allocations.
53. Reports that are regularly produced for financial monitoring such as the financial situation and summary reports only provide expenditure information at the branch level or E&I level and not at the sub-program and PSSA levels. This results in a lack of detailed data to support program funding decisions across the Agency. To overcome this deficiency, the Program has developed and implemented Program Health Checks to improve the reporting of more detailed financial and human resource information for decision-making. Continuing to improve the monitoring and reporting of program resources and performance is important for ensuring the achievement of program objectives.
54. Allocation models based on projected or planned volume of activities, the expected level of effort required, anticipated costs and resources to achieve specific program objectives would form the basis for more effective program planning and budget allocations. The CBSA is currently undergoing a financial management transformation initiative which includes new processes and systems to strengthen and support financial planning and forecasting.²³ Given this ongoing transformation, the audit did not make any recommendations pertaining to financial resource management. It is expected that future budget planning will be enhanced by improved forecasting systems and processes.

Recommendation 2:

The Vice-President of the Programs Branch, in collaboration with Operations and Human Resources branches, should develop an HR strategy for the Immigration Enforcement Program that includes

²³ "A Renewal of Financial Management, Budget Allocation and Budget Management – An information Brief" for 2016-17 approach



enhancing existing staffing mechanisms to meet operational needs and ensuring the delivery of core and specialized training.

MANAGEMENT RESPONSE	COMPLETION DATE
The Programs Branch, Human Resources Branch and Operations Branch to work collaboratively and deliver jointly on a staffing strategy for Enforcement and Intelligence officers that addresses all specialized needs of this program, including recruitment, training, and development of talent.	June 2017

8.3 Organization and Management Structures

Audit Criteria:

- *Organization and management structures support the effective operational delivery of the program across regions.*

55. Organizational and management structures determine how roles, authorities and responsibilities are assigned, controlled, and coordinated, and how information flows between the different levels and areas of an organization.²⁴ Organizational structures reflect the groupings of particular functions whereas management structures (e.g. matrix, divisional, professional bureaucracy) refer to the way tasks are assigned and coordinated, the levels of centralization and standardization, communication styles, etc.²⁵ Effective structures ensure the execution of authorities and responsibilities and the flow of information to manage activities in support of the achievement of objectives.²⁶
56. The regions deliver the IE program as part of their Enforcement and Intelligence Operations Divisions and are structured based on their regional resourcing levels and operational requirements. Some regions have established their own specialized support units and roles. For example, the Pacific region has a Data Integrity Unit to perform quality assurance on case files and Detention Liaison Officers to coordinate detention needs. The Prairie region recently established a centralized travel desk to support the planning of removals, and the Quebec region has an Operational Support and Integrated Services Team that provides an administrative support function.
57. Analysis of the management structures in terms of the number of subordinates and case workload per supervisor identified considerable variances across regions. Specifically, some regions have additional management positions at the FB-06 levels that perform similar work as FB-05 supervisors in other

²⁴ Derived from <http://www.businessdictionary.com/definition/organizational-structure.html>

²⁵ <http://www.hkiaat.org/images/uploads/articles/Management.pdf>

²⁶ Committee of Sponsoring Organizations of the Treadway Commission (COSO) Principle 3.



regions. Some regional unit supervisors oversee as many as 17 staff, whereas others oversee 8-10 staff. There were also significant differences in workloads per supervisor. For example, in fiscal year 2015-16, there were 608 forecasted removals per supervisor for the GTA region as opposed to 221 for Pacific, 52 for Prairie and 165 for Quebec. However, the analysis did not include an examination of level of case complexity. As such, it is possible that regions with higher volumes per supervisor included a significant proportion of lower complexity or similar case types. Supervisors with higher workloads and higher numbers of direct reports find it challenging to keep up with managerial and administrative tasks such as monitoring attendance, approving overtime and leaves of absence, providing supervision and feedback and conducting performance evaluations.

58. At NHQ, the expertise and responsibility for the IE program is shared between the Programs Branch (EIPD) and Operations Branch (EIOD). The roles of EIPD and EIOD are described in Appendix C and a partial organizational structure for the program is depicted in Appendix D. EIPD has the following three divisions for the Immigration Enforcement program: Program Management; Policy; and Program Performance and Transformation. Under the Program Management Division, Hearings and Investigations are grouped into one functional unit while two regions have grouped the Investigations and Removals functions together. Although Operations Branch provides mostly case specific support, it is also involved in monitoring and reporting on program performance, updating the Enforcement Manual, developing and issuing some of the Operational Bulletins and providing guidance to Hearings Officers.²⁷
59. Although the various organizational and management structures are designed to support the way the program is managed and delivered in different operational and regional contexts, it adds complexity to overall program management. Inefficient resolution of national policy or procedural issues can lead to inconsistent program delivery as regions must determine how to deal with their current case files. The program would benefit from optimizing the capacity and coordination of NHQ resources.

Recommendation 3:

The Vice-President of Programs Branch, in collaboration with Operations Branch, should explore options and formally agree on the most effective way to optimize the capacity and coordination of Immigration Enforcement Program resources at NHQ.

MANAGEMENT RESPONSE	COMPLETION DATE
The Vice-Presidents of Programs and Operations branches accept the recommendation and have agreed to conduct a diagnostic of the HQ Immigration Enforcement Program capacity to identify potential areas of duplication to optimizing utilization of resources. Upon review of the diagnostic by the Vice-Presidents, recommendations will be considered and a decision made on a way forward to improve coordination and	July 2017

²⁷ E.g. OPS-2016-20; OPS-2015-11



efficiency of the Immigration Enforcement Program in Headquarters.

8.4 Maintenance and Monitoring of Program Policies and Procedures

Audit Criteria:

- *Program policies and procedures are in place and are updated in a timely manner to reflect relevant changes in operating requirements.*
- *Monitoring of operational decisions to detain a subject is in place and any identified gaps are addressed.*

60. The establishment, maintenance, and monitoring of policies and procedures is a principle of effective internal control that supports the day-to-day execution of management directives and expectations.²⁸
61. The Enforcement Manual is intended as a support and guide for CBSA officers in the execution of their enforcement related responsibilities. Operational bulletins (OBs) are used to communicate policy and procedural changes that impact front-line work. The need to develop or update policies or procedures was also found to be discussed at various program committees and working groups. As a general best practice, OBs should not be issued where updating a chapter in the Enforcement Manual can serve the same purpose.
62. Policies and procedures for the IE program and sub-programs are in place, and include the Enforcement Manual, Standard Operating Procedures, OBs, Standing Orders, Post Orders and administrative forms. However, the Enforcement Manual is infrequently updated, despite changes such as the introduction of new legislation, processes and systems. For example, the Removals chapter was last updated in March 2010, and while the Detentions chapter was updated in December 2015, the update previous to that was September 2007. Similarly, the chapter for Admissibility and Detention Review Hearings was last updated in April 2014 but the previous update was in 2006. The Immigration Appeal Hearings has not been updated since 2005. While updates were made to the chapter for Investigations and Arrests in 2010, 2013 and 2014, the Program indicated that these were minor updates and that a comprehensive review was required. In the absence of ongoing, regular updates to key policies and procedures, CBSA officers must independently interpret new legislation, processes, and systems, resulting in varying understandings, workarounds, and inconsistent program delivery across regions. Working groups for the hearings sub-program act as a compensating control, where issues are discussed to promote consistent interpretations.

²⁸ Source: Principle 12 of the COSO Internal Control - Integrated Framework.



63. Policies and procedures have not been developed for some key IE activities. Examples include regional requests for national policies on medical escorts for removals, detention of vulnerable populations, file retention, the release of detainees, electronic monitoring, Hearings bonds, and the processing of detainee arrivals that are in possession of illicit substance.
64. Communication to the field about new or updated policies or procedures relies heavily on the issuance of OBs. Interviews and the review of detention files through both by the Internal Audit team and the Programs Branch National Risk Assessment for Detention (NRAD) review found that reliance on OBs was not guaranteed to reach all those who need to be made aware of the information. In addition, program policies and procedures are not available in a single location.
65. The Enforcement and Intelligence Functional Integrated Business Plan and the Agency's most recent Report on Plans and Priorities²⁹ have a key commitment for the 2067-17 fiscal year to "develop and implement robust immigration enforcement policies and ensure the integrity of the immigration policy framework". Given this commitment, the audit makes no recommendations related to policies and procedures at this time.

Monitoring of Detention Decisions

66. In September 2014, as part of the National Detention Strategy, the Agency implemented an NRAD process whereby the decision and rationale for detaining an IE subject must be documented in an NRAD form that is also kept on file. The purpose of the NRAD process is to "improve national consistency and enhance the overall management of the detention program in a transparent and equitable fashion."³⁰ The bulletins and the NRAD form provide definitions for the risk level of detainees.
67. Between June 2015 and February 2016, the Programs Branch, with assistance from the Operations Branch, conducted a "Review of the Use and Application of the NRAD Tool". The existence of such a review in addition to a Quality Assurance program to verify the compliance of CBSA Immigration Holding Centres with National Detention Standards demonstrates that the program has established some important program monitoring activities. Since the NRAD was a newly established process, the Audit included an examination of this review and its results.
68. The program NRAD review included over 270 files, with each region being asked to provide all "active files" for a selected period. The review found that the NRAD process and tools had not been fully or consistently implemented across all regions. Further, analysis of detention decisions showed regional variance in the detention location for detainees assigned the same risk rating. This highlights that while the NRAD is meant to improve consistency in detention decisions, the regions are constrained by other factors such as uneven availability of alternatives to detention and detention

²⁹ Sources: E&I Functional Integrated Business Plan and <http://www.cbsa-asfc.gc.ca/agency-agence/reports-rapports/rpp/2016-2017/report-rapport-eng.html>

³⁰ Source: Operational Bulletin PRG 2014-52



capacity that are expected to be addressed through the new National Immigration Detention Framework.

69. The audit team also independently reviewed a judgmental sample of 28 detention files with the objective of assessing the monitoring methodology and to make independent observations on the implementation of the NRAD tool. The audit noted that while the program monitoring methodology was rigorous and included a large number of files, it required over 12 months of time and effort to conduct, which may reduce its value for informed decision-making.
70. For 21 out of the 28 files reviewed by the audit team, the decision to detain a subject was consistent with the risk levels described in the NRAD.³¹ However, of the remaining files, some cases were rated as “low-risk” and released on condition despite being scheduled for imminent removal. As per NRAD definitions, these individuals are expected to be rated as “medium-risk” and be detained as they are considered flight risks. It should be noted that some regions (i.e., Pacific) are limited in their ability to detain subjects in Immigration Holding Centres given their maximum capacity and 48-hour limit for detaining subjects. Nevertheless, the correct risk ranking should be used along with a documented rationale for deviating from the policy/procedure.
71. The NRAD form was on file for only 15 of the files examined by the audit team, and the NRAD reassessment form was not on file for any of the cases that required one. This was consistent with the findings of the program’s own review. NRAD Reassessment forms are supposed to be completed for periods of detention of 60-days or more, or if there is a change in the detention circumstance. Responsibility for completing the reassessment form was not clear, with regions indicating it may be completed by either by the investigator/arresting officer, by officers at the detention facility, or by a Hearings Officer. There is room to improve compliance with NRAD policy and procedures, particularly in terms of completing NRAD and NRAD reassessment forms. It was also noted that the “Alternative to Detention” field on the NRAD form may not be needed and consideration should be given to removing it from the form.³²
72. The CBSA will continue to be limited in its ability to ensure the consistent treatment of immigration detainees across the country until key initiatives forming the National Detention Strategy have been fully implemented (e.g., addressing infrastructure replacements and establishing additional Alternatives to Detention). Until the strategy is implemented through the National Immigration Detention Framework, addressing issues around compliance with NRAD policies and procedures will support consistency across the country. It is important that the Agency continue monitoring detention decisions.

Recommendation 4:

³² The NRAD form includes a checkbox to indicate whether Alternatives to Detention were considered, however this is redundant as they must be considered and does not account for differences in the availability of alternatives across regions.

³² The NRAD form includes a checkbox to indicate whether Alternatives to Detention were considered, however this is redundant as they must be considered and does not account for differences in the availability of alternatives across regions.



The Vice-President of the Programs Branch should implement identified improvements to the National Risk Assessment for Detention process and continue evolving the monitoring methodology.

MANAGEMENT RESPONSE	COMPLETION DATE
The Programs Branch agrees with the recommendation. The Detention Program, with support from and collaboration with Operations Branch, is finalizing National Risk Assessment for Detention (NRAD) updates and instructions.	

APPENDIX A – ABOUT THE AUDIT

AUDIT OBJECTIVES AND SCOPE

The audit objective was to determine the extent to which program governance, management processes, practices and controls are in place and support effective program delivery. The audit focused on program governance; resource management; monitoring and reporting; organizational and management structures; and policies and procedures in support of program delivery.

The scope of the audit focused primarily on documents and data from between April 1, 2014 and March 31, 2016 for the Detentions, Removals, and Hearings sub-programs. The audit largely excluded the Immigration Investigations sub-program as it was the subject of a 2015 Program Evaluation.

The Audit of Immigration Enforcement was approved as part of the 2015 Integrated Audit and Evaluation Plan.

RISK ASSESSMENT

A preliminary risk assessment was conducted during the planning phase to identify potential areas of risk and audit priorities. The risk assessment was guided by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) framework and included an extensive document review and preliminary stakeholder interviews. The following key residual risk areas were identified:

- Program governance and oversight bodies may not be effectively establishing plans, priorities and performance objectives and may not be effectively monitoring and supporting the program in the achievement of objectives.
- Effective and informed decision making may be hampered by the absence of complete, accurate and timely information and program performance targets may not be realistic.
- Program policies and procedures may not be kept sufficiently up-to-date.
- Processes for planning, budgeting, allocating and monitoring financial resources may not be supporting the achievement of program objectives in an effective, efficient and economical manner.
- Human resources planning (i.e., retention and succession planning) and organization may not be aligned with current and future strategic and business objectives of the program.



- Some staff may be exercising Minister's Delegate authority without having taken the core training.
- Regional differences in program delivery models and design might result in varying operational risk tolerance levels and risk priorities and lead to the inconsistent treatment of inadmissible people.
- The program may not be properly maintaining and securing case file information according to accepted information management and records disposal policies and practices.³³

APPROACH AND METHODOLOGY

The audit was conducted in accordance with the *Internal Auditing Standards for the Government of Canada*. The examination phase of this audit was performed using the following approach:

- Review and analysis of program documentation (e.g., training standards, records of decision, and applicable program policies, directives and procedures).
- Review and analysis of resource allocation, budgeting, and expenditure monitoring processes.
- Interviews with EIPD, EIOD, Human Resources, and Comptrollership branches.
- Site visits to Calgary, Vancouver, Toronto and Montreal, including process overviews, file reviews, and interviews with key regional management and staff.
- Review of a sample of case files to assess the implementation of the National Risk Assessment for Detention forms and to determine the consistency of detention decisions across regions.
- Review and comparison of training records against lists of Inland Enforcement officers that have Minister's Delegate Authority.

AUDIT CRITERIA

The audit criteria are aligned with the 2013 COSO management control principles. Given the preliminary findings and risks from the planning phase, the following criteria were chosen.

LINES OF ENQUIRY	AUDIT CRITERIA
1. Governance	1.1 Oversight bodies provide strategic direction and monitoring of the Immigration Enforcement (IE) program to ensure the achievement of objectives.
2. Resource Management	2.1. HR plans are in place to attract, develop and retain sufficient competent IE staff to support operational objectives. 2.2. Financial resource management supports the achievement of IE objectives.

³³ Given the large scope of this audit, this risk was recommended for consideration in a future audit or review.



LINES OF ENQUIRY	AUDIT CRITERIA
3. Program Delivery	<p>3.1 Organization and management structures support the effective operational delivery of the program across regions.</p> <p>3.2 Monitoring of operational decisions to detain a subject is in place and any identified gaps are addressed.</p> <p>3.3 Program policies and procedures are in place and are updated in a timely manner to reflect relevant changes in operating requirements.</p>
4. Performance Monitoring	<p>4.1 Useful and relevant key performance indicators have been established in pursuit of program objectives.</p> <p>4.2 The program has effective processes to provide senior management and oversight bodies with sufficient, relevant, accurate, and timely program performance information to support decision making.</p>

APPENDIX B – LIST OF ACRONYMS

CBSA – Canada Border Services Agency
 COSO – Committee of Sponsoring Organizations of the Treadway Commission
 DPR – Departmental Performance Report
 E/E&I– Enforcement and Intelligence
 EIOD – Enforcement and Intelligence Operations Division
 EIPD – Enforcement and Intelligence Programs Division
 ERP – Enterprise Risk Profile
 FOSS – Field Operations Support System
 GCMS – Global Case Management System
 GTA – Greater Toronto Area region
 IE – Immigration Enforcement
 IEO – Inland Enforcement Officer
 IHC – Immigration Holding Centre
 IRB – Immigration and Refugee Board of Canada
 IRCC – Immigration, Refugees and Citizenship Canada (formerly Citizenship and Immigration Canada)
 IRPA – *Immigration and Refugee Protection Act*
 NCMS – National Case Management System
 NDSSC – National Detention Strategy Steering Committee
 NHQ – National Headquarters
 NIEC – National Inland Enforcement Committee
 NRAD – National Risk Assessment for Detention
 MDR – Minister's Delegate Review (MDR)
 PMT – Program Management Table
 OAG – Office of the Auditor General of Canada



Canada Border
Services Agency

Agence des services
frontaliers du Canada

Border Services



Services frontaliers

OITP – Officer Induction Training Program

UNHCR –United Nations High Commissioner for Refugees



APPENDIX C – DESCRIPTION OF PROGRAM ACTIVITIES³⁴

The Immigration Enforcement program consists of the following four sub-programs:

- **Immigration Investigations:** investigation and arrest of foreign nationals and permanent residents already in Canada who are or may be inadmissible into Canada as defined by the IRPA. Activities include conducting desk and road investigations, conducting Minister's Delegate reviews and issuing removal orders, writing inadmissibility reports, issuing and managing immigration warrants, as well as arresting and detaining inadmissible individuals. Cases are prioritized to focus on the highest degree of risk (e.g. security, war crimes, organized crime, criminality, etc.) and persons whose removal may be imminent are not delayed.
- **Detentions:** detention and/or monitoring of the conditions of release of foreign nationals or permanent residents where there are reasonable grounds to believe the individual is inadmissible to Canada and where the individual is a danger to the public, poses a flight risk or where their identity is not established. Foreign nationals and permanent residents may also be detained upon entry into Canada for an examination or where the individual is suspected of being inadmissible for security reasons. They are entitled to an IRB hearing after being detained for 48 hours, 7 days and 30 days. The CBSA has three immigration holding centres in Canada located at Vancouver, Toronto and Montréal.
- **Hearings:** Regional CBSA hearings officers (Minister's Delegates) are responsible for representing the Minister of Public Safety and/or the Minister of IRCC at immigration and refugee proceedings before the IRB. This function ensures that foreign nationals and permanent residents who are inadmissible to Canada are denied status, and removal orders are issued where appropriate.
- **Removals:** Foreign nationals and permanent residents with an enforceable removal order are removed from Canada. IEOs ensure that travel documents are available and conduct pre-removal risk assessments. Where a valid travel document is not available, IEOs liaise with foreign embassies to secure the required travel documents. The CBSA may have to make further arrangements for removal, which could include arranging for travel (e.g. purchasing an airline ticket or chartering a plane for high risk individuals in exceptional cases), providing escorts (e.g. to respond to airline and transit country requirements), and liaising with CBSA staff abroad (migration integrity officers) to ensure smooth passage from Canada to the final destination.

National Headquarters

Role and Responsibilities of Programs Branch (EIPD):

Policy:

- Management of the overall legislative and policy frameworks for E&I programs
- Development of coherent, evidence-based and outward looking policies

³⁴ Source: E&I Functional Integrated Business Plan



- Delivery of the Ministerial Relief Program in support of the Minister of Public Safety and Emergency Preparedness Canada

Program Management:

- Leadership, strategic direction and program management, including program policy support and functional guidance to Operations Branch for all E&I programs
- Development and maintenance of E&I program related manuals
- Development of training strategies for E&I programs
- Supporting and responding to E&I related audits and evaluations

Program Performance, Reporting and Transformation:

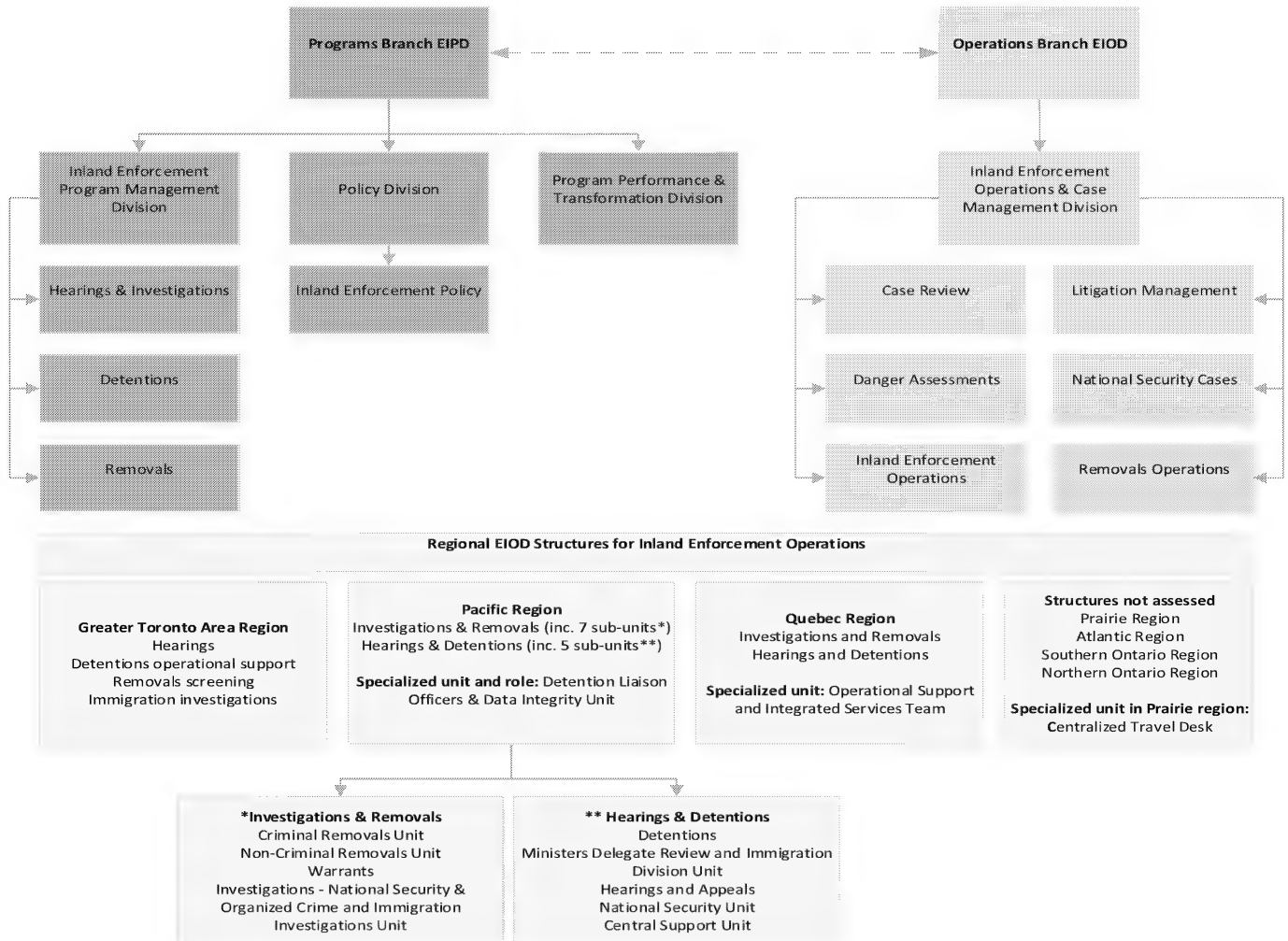
- Development, maintenance and reporting of E&I programs performance measurement framework
- Coordination and strategic planning and E&I priorities setting
- Governance and financial oversight for E&I
- Development of transformational initiatives related to our E&I programs
- Program Business System Integration

Support provided by the Operations Branch (EIOD) includes:

- Tracking and reporting on high profile cases in consultation with program areas, IRCC and the regions;
- Management of the “wanted” program; and providing advice on taking enforcement action against long-term permanent residents and applicants for work permits;
- National operational planning for mass marine migrant arrivals;
- Provides advice and instruction to the Department of Justice on litigation related to inadmissibilities involving national security, and Canada’s responses to international and human rights tribunals;
- Oversees the regional monitoring of Court-ordered release conditions for security cases, to ensure national consistency in monitoring activities, reviews phone calls to ensure compliance with release conditions, prepares risk assessments, and manages the national contract for GPS bracelets;
- Assistance to the regions in obtaining travel documents for persons to be removed and conduit to uncooperative countries in issuing travel documents;
- National operational planning for mass marine migrant arrivals; and
- Preparation of danger assessments for persons found inadmissible for national security or for those who have been excluded from the refugee determination process for these reasons.



APPENDIX D – ORGANIZATIONAL STRUCTURE FOR THE IE PROGRAM





Canada Border
Services Agency

Agence des services
frontaliers du Canada

Protected A



Completing the *National Risk Assessment for Detention (NRAD)* form



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The Revised NRAD

- National Immigration Detention Framework
- Impetus for change
- Identified Operational Gaps
- The NRAD: section by section
- Section on Detention Placement Assessment
- Section on Decision
- Initial Assessment and Subsequent Assessments
- Saving and Sharing
- Scenarios



National Immigration Detention Framework

- The National Immigration Detention Framework (NIDF) aims to create a better, fairer immigration detention system;
- Key detention principles involve: respecting the health, well-being and safety of all people held for immigration purposes;
- Need to better risk manage our population while at the same time continue meeting our other enforcement outcomes;
- Need for greater use of Alternatives to detention (ATD) and measured use of detention.



Impetus for Change

- Inadequate infrastructure
- Inconsistent national standards and service delivery mechanisms
- Stakeholder criticism
- Increasing number of legal challenges
- Mixed enforcement outcomes



Identified Operational Gaps

- Concern over program integrity in general
 - Inconsistent use of risk assessment and reporting tools (e.g. NRAD)
 - Perceived conflicting priorities related to enforcement objectives (detention vs removal)
 - Need for clearer policies and guidelines to support decision-making
 - Inconsistent or missing data entry into case management systems which leads to difficulty in reporting on program outcomes
- Inconsistent access to ATD tools and programs across the country
- Necessity for medical and mental health policies and guidelines as well as enhanced services for management of the detention population nationally
- Inability to appropriately manage certain population groups within Immigration Holding Centres (IHCs) nationally



How Does this Affect Me?

- The NIDF is meant to modernize detention operations
- Key impacts on CBSA personnel and anticipated challenges
 - Infrastructure Replacement & Retrofit
 - Revised National Policies & Standards
 - Partnerships
 - Mental Health
 - Transparency
 - Alternatives to Detention
- The revised NRAD and Detainee Medical forms are key components in the renewal of detention policies and the move towards greater program transparency and consistency.



The Revised NRAD

Purpose of this presentation:

To inform Officers of the changes made to the National Risk Assessment for Detention (BSF754 form) and provide instruction regarding completion of the form.

Objectives of the NRAD:

- To determine the risk that an individual may pose within a detention facility based on prescribed risk and vulnerability indicators.
- To determine the appropriate detention facility where the detainee will be held.



National Risk Assessment for Detention (BSF754)

NATIONAL RISK ASSESSMENT FOR DETENTION ÉVALUATION NATIONALE DES RISQUES EN MATIÈRE DE DÉTENTION

The information you provide in this document is collected under the authority of section 95 of the Immigration and Refugee Protection Act (IRPA) for the purpose of assessing the risk of individuals in detention. The information may be disclosed to Immigration, Refugees and Citizenship Canada (IRCC), the Royal Canadian Mounted Police (RCMP), the Canadian Security Intelligence Service (CSIS) and foreign governments for the purposes of the administration and enforcement of immigration legislation. No other information may be shared with Correctional Services Canada (CSC) and with provincial correctional facilities for medical emergency and medical history purposes.

Individuals have the right of access to and/or can make corrections of their personal information under the Privacy Act. The information collected is described within Info Source under the Hearings and Corrections Program Personal Information Bank CS94 PPU 1107 which is detailed at data.basix.com/bsf754.ca.

L'information fournie dans le présent formulaire est recueillie en vertu de l'article 95 de la Loi sur l'immigration et la protection des réfugiés (LIRP) dans le but d'évaluer les risques liés aux personnes détenues. Les renseignements peuvent être divulgués à Immigration, Réfugiés et Citoyenneté Canada (IRCC), à la Gendarmerie royale du Canada (GRC), au Service canadien du renseignement de sécurité (SCRS) et à des gouvernements étrangers aux fins de l'application et de l'application de la législation sur l'immigration. Les renseignements médicaux peuvent être communiqués au Service correctionnel du Canada (SCC) et aux établissements correctionnels provinciaux en cas d'urgence médicale ou pour connaître l'historique médical de la personne détenue.

En vertu de la Loi sur la protection des renseignements personnels, toute personne a le droit d'accéder à ses renseignements personnels et d'y apporter des corrections. Les renseignements recueillis sont décrits dans l'Info Source, dans le Répertoire de renseignements personnels du Programme des audiences et des détentions ASFC PPU 1107 qui est présenté en détail à l'adresse data.basix.com/bsf754.ca.

Initial Assessment
Évaluation initiale

Subsequent Assessment
Évaluation subséquente

PERSONAL INFORMATION - RENSEIGNEMENTS PERSONNELS

Surname - Nom de famille		Given Name - Prénom		Date
Gender - Sexe	Male - Homme Female - Femme Other - Autre	Date of Birth - Date de naissance	UCI ID - Numéro ICU	
Citizenship - Citoyenneté		Current Detention Location - Lieu de détention actuel		
Language Spoken - Langue parlée		Official Language of Choice - Langue officielle de préférence English - Anglais French - Français		

DETENTION PLACEMENT ASSESSMENT - ÉVALUATION DU PLACEMENT DE DÉTENTION

The following section will assist officers in making an informed decision on detention placement based on a set of factors. The risk factor points must be added, whereas the vulnerability factor points must be subtracted. Answer each question, write the number of points in the right hand-column and consolidate the total score on the next page. The total score will be used in the decision section.

La section suivante aidera les agents à prendre une décision éclairée sur le placement en détention en fonction d'un ensemble de facteurs. Les points des facteurs de risque doivent être ajoutés alors que ceux du facteur de vulnérabilité doivent être soustraits. Répondez à chaque question, notez le nombre de points dans la colonne de droite et indiquez le pontage total à la page suivante. Le pontage total sera utilisé dans la section de la décision.

RISK FACTORS - FACTEURS DE RISQUE	Points
1. Possible inadmissibility due to security grounds (sec. 34), including security certificates (sec. 77).	No (0) Non (0)
1. Interdiction de territoire possible pour des motifs de sécurité (art. 34), y compris les certificats de sécurité (art. 77).	Yes (6) Oui (6)
2. Possible inadmissibility due to organized criminality (sec. 37).	No (0) Non (0)
2. Interdiction de territoire possible pour activités de criminalité organisée (art. 37).	Yes (6) Oui (6)
3. Number of years passed since the last known offence committed or conviction that may cause inadmissibility for serious criminality or criminality (sec. 36).	Ten or More (0) Dix ou plus (0)
3. Nombre d'années écoulées depuis la dernière infraction commise ou condamnation connue qui peut entraîner une interdiction de territoire pour grande criminalité ou criminalité (art. 36).	Five to Nine (2) Cinq à Neuf (2)
4. Number of known acts, offences or convictions involving threats or violent crimes.	One or Two (4) Un ou deux (4)
4. Nombre d'actes, infractions ou de condamnations connues impliquant des menaces ou un crime violent.	Three or More (7) Trois ou plus (7)
5. Has committed a known act, offence or been convicted of a severely violent crime (e.g. murder, aggravated assault, assault with a weapon, aggravated sexual assault, sexual assault with a weapon, torture or genocide).	No (0) Non (0)
5. A commis un acte connu, une infraction ou a été reconnu(e) coupable d'un crime de violence grave (par exemple, meurtre, voies de fait graves, agression armée, agression sexuelle grave, agression sexuelle armée, torture ou génocide).	Yes (3) Oui (3)
6. In the last two years, number of occurrences of a serious incident during the arrest (e.g. active resistance) or a major breach of the detention facility rules (e.g. using physical violence aimed at another person) of an IHC, a provincial or a federal correctional facility or a port of entry or inland office case.	None (0) Aucun (0)
6. Au cours des deux dernières années, nombre d'incidents graves au cours de l'arrestation (par exemple : résistances actives ou en raison d'un manquement majeur (par exemple : utiliser la violence physique vis-à-vis d'une autre personne) aux règles d'un CSI, établissement correctionnel provincial ou fédéral ou une cellule du port d'entrée ou un bureau intérieur.	One or Two (2) Un ou deux (2)
7. Previously escaped or attempted escape from legal custody.	No (0) Non (0)
7. Évasion ou tentative d'évasion antérieure d'une garde légale.	Yes (4) Oui (4)
8. Is a fugitive from justice or remains the subject of an unexecuted criminal warrant for arrest.	No (0) Non (0)
8. S'est-il échappé de la justice ou fait l'objet d'un mandat d'arrestation pénal non-exécuté.	Yes (2) Oui (2)
Subtotal - Sous-total :	

BSF754 (17)

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VULNERABILITY FACTOR - FACTEUR DE VULNÉRABILITÉ	
Vulnerable groups are defined as: pregnant women and nursing mothers; minors under 16 years of age; persons suffering from a severe medical condition or disability; persons suffering from restricted mobility; persons with suspected or known mental illness; and victims of human trafficking.	
Les groupes vulnérables sont les suivants : les femmes enceintes et les mères allaitantes; les mineurs (âgés de moins de 16 ans); les personnes ayant un trouble médical ou une déficience grave; les personnes à mobilité réduite; les personnes atteintes d'une maladie mentale soupçonnée ou connue; et les victimes de la traite de personnes.	
9. Is the individual part of a vulnerable group?	No (0) Non (0)
9. Est-ce que la personne fait partie d'un groupe vulnérable?	Yes (2) Oui (2)
If yes specify : Si oui précisez :	
Total score - Pontage total :	
DECISION - DÉCISION	
A detainee should be detained in a detention facility according to the total score as follows: 0 to 4 points = IHC; 5 to 9 points = IHC or Provincial Correctional Facility (officer's discretion); 10 points and more = Provincial Correctional Facility. In regions where an IHC exists, the IHC should always be the default detention facility if risk can be mitigated. Officers are encouraged to make a decision in consultation with an officer who works at an IHC, a detainee liaison officer or a designated regional representative. Following each completed assessment, the detainee must be informed of the factors taken into consideration and they should be afforded an opportunity to give details on risk and vulnerability factors before the chosen facility type has been finalized. The officer is not bound by those comments; however, they must be taken into consideration.	
Un détenu devrait être détenu dans un établissement de détention selon le pontage total suivant : 0 à 4 points = CSI; 5 à 9 points = CSI ou établissement correctionnel provincial (à la discrétion de l'agent); 10 points et plus = Établissement correctionnel provincial. Dans les régions où un CSI existe, le CSI devrait toujours être utilisé par défaut comme établissement de détention dans les cas où le risque peut être atténué. Les agents sont encouragés à prendre une décision en consultation avec un agent qui travaille dans un CSI ou d'un agent de liaison du détenu ou un représentant régional désigné. Après chaque évaluation réalisée, le détenu doit être informé des facteurs de risque et de vulnérabilité avant que le type d'établissement choisi ne soit finalisé. L'agent ne doit pas nécessairement donner suite à ces observations, cependant, il doit en tenir compte.	
Specify the facility type for detention: Précisez le type d'établissement pour la détention :	IHC (where available) CSI (là où disponible)
Has the detainee individual been afforded an opportunity to give details on risk and vulnerability factors before the chosen detention facility type has been finalized? Est-ce que la personne détenue a eu la possibilité de présenter des précisions concernant les facteurs de risque et de vulnérabilité avant que le type d'établissement choisi ne soit finalisé?	No Non
If no specify : Si non précisez :	Yes Oui
In this section, specify any additional information supporting the officer's decision (e.g. details of key factors, the detainee's behaviour, details given by the detainee, incidents and changes in the facility type for detention).	
Précisez dans cette section toute autre information justifiant la décision de l'agent (par exemple : des précisions pour les facteurs principaux, le comportement du détenu, les incidents survenus, les changements de type d'établissement pour la détention).	
The chosen detention facility type shall be reviewed and approved by: • A Chief of Operations or higher regional authority for all Port of Entry cases; or • An Inmate Supervisor or Manager or higher regional authority for all Inmate cases.	Le type d'établissement pour la détention choisi doit être contrôlé et approuvé par : • Un chef des opérations ou une autorité régionale supérieure pour tous les cas traités dans les bureaux d'entrée; ou • Un superviseur ou gestionnaire ou une autorité régionale supérieure pour tous les cas traités dans les bureaux intérieurs.
If the reviewing authority do not concur with the chosen facility type for detention, a subsequent risk assessment for detention must be completed.	Si l'autorité de contrôle n'est pas d'accord avec le type d'établissement pour la détention choisi, une évaluation subséquente des risques en matière de détention doit être effectuée.
Each completed National Risk Assessment for Detention must be placed in the detainee's case file and a copy of the form must be provided to: • The detainee; and • The IHC or the provincial correctional facility.	Chaque évaluation nationale des risques en matière de détention réalisée doit être versée au dossier du détenu et une copie du formulaire doit être fournie : • Au détenu; • Au CSI ou à l'établissement correctionnel provincial.
A subsequent risk assessment for detention must be completed within 60 days from the date of the initial risk assessment if the detention continues or sooner if circumstances change or a change in risk is observed.	Une évaluation subséquente des risques en matière de détention doit être réalisée dans les 60 jours suivant la date de l'évaluation initiale si la détention se poursuit ou avant si les circonstances changent ou qu'un changement à l'égard des risques est observé.
Name of Officer and Badge Number - Nom de l'agent et numéro d'insigne	Signature
Name of Chief of Operations (port of entry cases) or Inmate Supervisor or Manager (inmate cases) and Badge Number Nom du chef des opérations (cas de port d'entrée) ou superviseur ou gestionnaire (cas de bureau intérieur) et numéro d'insigne	Signature
FOR IHC USE ONLY - À L'USAGE DU CSI SEULEMENT	
In regions where an IHC exists, the detention facility type must be reviewed by an officer or a manager who works at an IHC or a designated regional representative. An officer's decision for the detention facility type may be modified if necessary. In this case, the decision maker must give details and rationale to explain their decision. It must not be used if circumstances change or a change in risk is observed (e.g., an incident). In that case, a subsequent assessment must be completed.	
Dans les régions où un CSI existe, le type d'établissement pour la détention choisi doit être revu par un agent ou un gestionnaire qui travaille dans un CSI ou un représentant régional désigné. La décision d'un agent pour le type d'établissement de détention peut être modifiée au besoin. Dans ce cas, le décideur doit donner des détails et le raisonnement qui entourent la décision. Cela ne doit pas être utilisé si les circonstances changent ou si une modification quant au risque qu'il représente est observée (par exemple, un incident). Dans ce cas, une évaluation subséquente doit être complétée.	
Specify the facility type for detention: Précisez le type d'établissement pour la détention :	IHC (where available) CSI (là où disponible)
Details and Rationale - Détails et raisonnement	Provincial Correctional Facility Établissement correctionnel provincial
Name of Officer and Badge Number - Nom de l'agent et le numéro d'insigne	Signature



Part 2: Section on Detention Placement Assessment

- Placement risk factors take into consideration, inadmissibility categories; criminal history and compliance with rules.
- Each factor is weighted by a scoring system.

1. Possible inadmissibility due to security grounds (sec. 34), including security certificates (sec. 77).	No (0)	Yes (6)	
1. Interdiction de territoire possible pour des motifs de sécurité (art. 34), y compris les certificats de sécurité (art.77).	Non (0)	Oui (6)	
2. Possible inadmissibility due to organized criminality (sec. 37).	No (0)	Yes (6)	
2. Interdiction de territoire possible pour activités de criminalité organisée (art. 37)	Non (0)	Oui (6)	
3. Number of years passed since the last known offence committed or conviction that may cause inadmissibility for serious criminality or criminality (sec. 36).	Ten or More (0)	Five to Nine (2)	Four or Less (3)
3. Nombre d'années écoulées depuis la dernière infraction commise ou condamnation connue qui peut entraîner une interdiction de territoire pour grande criminalité ou criminalité (art. 36).	Dix ou plus (0)	Cinq à Neuf (2)	Quatre ou moins (3)



Part 2: Section on Detention Placement Assessment

- Non-violent crimes
- Threats or violent crimes
 - Severely violent crimes (cause injuries to a person or were perpetrated with the use of a weapon)

4. Number of known acts, offences or convictions involving threats or violent crimes.	None (0)	One or Two (4)	Three or More (7)
4. Nombre d'actes, d'infractions ou de condamnations connues impliquant des menaces ou un crime violent.	Aucun (0)	Un ou deux (4)	Trois ou plus (7)
5. Has committed a known act, offence or been convicted of a severely violent crime. (e.g. murder, aggravated assault, assault with a weapon, aggravated sexual assault, sexual assault with a weapon, torture or genocide.)	No (0)	Yes (3)	
5. A commis un acte connu, une infraction ou a été reconnue(e) coupable d'un crime de violence grave (par exemple : meurtre, voies de fait graves, agression armée, agression sexuelle grave, agression sexuelle armée, torture ou génocide).	Non (0)	Oui (3)	



Part 2: Section on Detention Placement Assessment

- The CBSA National Detention Standards – Disciplinary system defines a major breach as: a detainee commits, attempts or incites acts that are violent, harmful to others or cause an unsafe environment in the detention facility.

6. In the last two years, number of occurrences of a serious incident during the arrest (e.g. active resistance) or a major breach of the detention facility rules (e.g. using physical violence aimed at another person) of an IHC, a provincial or a federal correctional facility or a port of entry or inland office cell.			
6. Au cours des deux dernières années, nombre d'incidents graves au cours de l'arrestation (par exemple : résistant actif) ou en raison d'un manquement majeur (par exemple : utiliser la violence physique vis-à-vis d'une autre personne) aux règles d'un CSI, établissement correctionnel provincial ou fédéral ou une cellule d'un port d'entrée ou un bureau intérieur.	None (0) Aucun (0)	One or Two (2) Un ou deux (2)	Three or More (4) Trois ou plus (4)
7. Previously escaped or attempted escape from legal custody.	No (0)	Yes (4)	
7. Évasion ou tentative d'évasion antérieure d'une garde légale.	Non (0)	Oui (4)	
8. Is a fugitive from justice or remains the subject of an unexecuted criminal warrant for arrest.	No (0)	Yes (3)	
8. Il/elle est un fugitif de la justice ou fait l'objet d'un mandat d'arrestation pénal non-exécuté.	Non (0)	Oui (3)	



Part 2: Section on Detention Placement Assessment

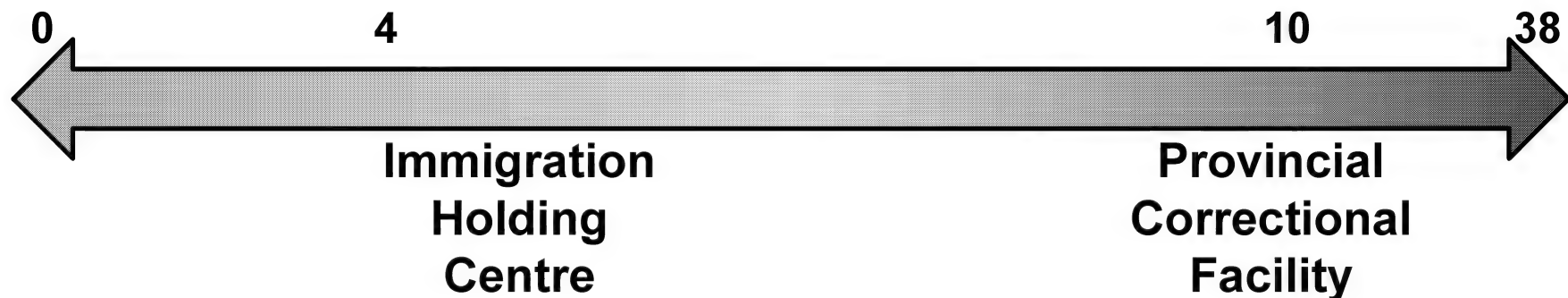
- Vulnerability factor (Q9) - A vulnerable person in the detention context is defined as a person for whom detention may cause a particular hardship.
 - pregnant women and nursing mothers;
 - minors (under 18 years of age);
 - persons suffering from a severe medical condition or disability;*
 - persons suffering from restricted mobility;*
 - persons with suspected or known mental illness; and
 - victims of human trafficking.

VULNERABILITY FACTOR - FACTEUR DE VULNÉRABILITÉ		
Vulnerable groups are defined as: pregnant women and nursing mothers; minors (under 18 years of age); persons suffering from a severe medical condition or disability; persons suffering from restricted mobility; persons with suspected or known mental illness; and victims of human trafficking. Les groupes vulnérables sont les suivants : les femmes enceintes et les mères allaitantes; les mineurs (âgés de moins de 18 ans); les personnes ayant un trouble médical ou une déficience grave; les personnes à mobilité réduite; les personnes atteintes d'une maladie mentale soupçonnée ou connue; et les victimes de la traite de personnes.		
9. Is the individual part of a vulnerable group? 9. Est-ce que la personne fait partie d'un groupe vulnérable?	No (0) Non (0)	Yes (-2) Oui (-2)
If yes specify : Si oui précisez :		



Part 3: Section on Decision

- The total score obtained through the Detention Placement Section gives you an idea of what to do next:
 - 0 to 4 points = IHC (where available)
 - 5 to 9 points = IHC or Provincial Correctional Facility
 - 10 points and more = Provincial Correctional Facility





Part 3: Section on Decision

- The detainee must be informed of the risk factors taken into consideration.
- The detainee should be afforded an opportunity to give details on risk and vulnerability factors before the chosen facility type has been finalized.
- Officer's notes should be clear, concise and pertinent.
- The NRAD may be used during a detention review (Immigration and Refugee Board) or a judicial review (Federal Court).

Specify the facility type for detention: Précisez le type d'établissement pour la détention :	IHC (where available) CSI (là où disponible)	Provincial Correctional Facility Établissement correctionnel provincial
Has the detained individual been afforded an opportunity to give details on risk and vulnerability factors before the chosen detention facility type has been finalized? Est-ce que la personne détenue a eu la possibilité de présenter des précisions concernant les facteurs de risque et de vulnérabilité avant que le type d'établissement choisi ne soit finalisé?	No Non	Yes Oui
If no specify : Si non précisez :		
In this section, specify any additional information supporting the officer's decision (e.g. details of key factors, the detainee's behaviour, details given by the detainee, incidents and changes in the facility type for detention). Précisez dans cette section toute autre information justifiant la décision de l'agent (par exemple : des précisions pour les facteurs principaux, le comportement du détenu, les précisions fournies par le détenu, les incidents et les changements du type d'établissement pour la détention).		



Part 3: For IHC Use Only

- NRAD shall be reviewed and approved by:
 - An Superintendent (FB05) or higher regional authority for all Port of Entry cases;
 - An Inland Supervisor or Manager (FB05/FB06) or higher regional authority for all Inland cases.
- In regions where an IHC exists, an officer's decision for placement must be reviewed by:
 - an officer who works at an IHC;
 - a manager who works at an IHC; or
 - a designated regional representative.
- An officer's decision for placement in an IHC or provincial correctional facility may be modified.
- The decision maker must give details and rationale to explain their decision.



Initial Assessment and Subsequent Assessments

- The initial NRAD assessment is completed by the CBSA Officer ordering the detention.
- A subsequent NRAD assessment must be completed within 60 days of the initial risk assessment if the detention continues or sooner if circumstances changes or a change in risk is observed, and every 60 days thereafter.
- The responsibility lies with:
 - CBSA Officers working at the IHC with respect to detainees at IHC;
 - Detainee Liaison Officers or Officers designated to perform this function with respect to detainees in provincial correctional facilities.



GCMS Saving

Each completed form must be scanned and saved:

- Clients>Documents>ID Supporting documents sub tab:
- Create a new record;
- Select the following options:
 - Type: *CDN Immigration Doc*; Sub Type: *Client Submission*,
 - Document #: *BSF754*, Country of Issue: *Canada*, Document Name: *National Risk Assessment for Detention* and complete the Issue date;
- Upload the form in GCMS.

Client Details	Associations	Background Info	Names	Admissibilities	Addresses	Payments	Medicals - HB	Summary Cases	Documents	Info Sharing	Benefits	Notes	eDocs	Biometrics	Detentions	Events	Certificates	Paper File
Travel Documents	ID Supporting Documents	IRRC Documents	Photos	ID Supporting Documents CIT														
ID Supporting Documents New Raw Delete Query Associate 1 - 2 of 1																		
Type	Sub Type	Other Sub Type	Document #	Country of Iss. Document Nam	Document Stat	Issue Date	Expiry Date	Issuing Author	Place of Issue	ICAO Complian Result	Contact	Other Contact	Serial #					
CDN Immigration Document	Client Submission		BSF754	Canada	National Risk As...	2017/12/06												

Seizure History	New	Query	No Records	Attachments	New	Associate	No Records
Seized Status	Seized Date	Ref'd At	Tracking #	Return Date	Updated By	Updated Date	



Saving in NCMS

For each completed form, under the Immigration Hold tab :

- Create a new NRAD event;
- Enter the disposition - total score;
- Select vulnerable groups.

Case **Conditions**

Monster, C.-92432769 - FN

- Immigration Hold
 - Initiated
 - Immigration Hold
 - Detention Risk Assessment Completed: Medium Risk**
 - Conditional Offer of Release - IRB
 - Released by IRB - Deposits and Guarantees
- Concluded
- In Person Reporting

monster, c - 1108477670 - FN

UCI: 92432769 File No.: Gender: M COB: United States of America
 Name: Monster, C. Loc.: Citizenship: United States of America
 DOB: 01-Jan-1980 Detention: CNCL

Event | File | Notes | Risks

Event Type: National Risk Assessment for Detention

Due Date & Time: Officer: Joelle Grenier

Start Date & Time: 04-Oct-2017 07:39 Interpreter: Member:

End Date & Time:

Province: In Room:

Location Type: In Person: ☐

Location:

Disposition: Detention Risk Assessment Completed: Medium Risk

Office:

Cmts.



Sharing

Each completed NRAD must be placed in the detainee's case file and a copy of the form must be given to:

- The detainee (by hand, by mail or electronically);
- The IHC or the provincial correctional facility.



NRAD Scenarios

Complete an NRAD form (BSF754)
for each scenario:

- Identify the detention risk and vulnerability factors;
- Calculate the total score;
- Complete the decision and narrative space.





Questions?

Reference: ENF 20 – Detention Manual

Detentions Unit, Programs Branch
Detention-Programs@cbsa-asfc.gc.ca

ENF 20

Detention

Canada

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Updates to chapter

Listing by date

2020-03-23

Multiple sections have been reorganized to ease the reading.

Section 4.3, Forms and publications, Detention Cell Log and Instructions (BSF481) and Detention Cell Log (BSF481-1) have been merged. BSF508, previously named Review of Detention by Officer, has been revised and renamed to Detention Notes.

Section 6.6, Factors: identity not established, paragraphs on cooperation have been revised.

Section 6.7, Factors: detention on entry to complete the examination, clarifications have been added regarding urgent medical treatments.

Section 6.10, Other regulatory factors and best interests of the directly affected child, and 6.11, Detention of minor children (under 18 years of age), have been updated following the introduction of two IRPR amendments.

Section 7, Detentions facilities, has been updated.

Section 9, Procedure: detention, the table has been updated.

Section 9.1, Data entry, has been updated.

Section 9.3, Order for Detention, has been created.

Section 9.4, Detainee medical needs, subsequent assessment requirements and section 9.5, Placement: national risk assessment for detention have been revised.

Section 9.6, Management review of detention cases, has been revised to streamline the reviewing process.

Section 10.2, In-custody death or life-threatening condition notification, has been created.

Sections 11 to 11.6 have been created to clarify the placement and transfer of detainees from a non-IHC region to an IHC.

Section 12, Procedure: release by officer before the first detention review, the table has been updated.

Section 13, Transitional measures, has been erased.

Annex A, Detention Checklist, has been created.

Annex B, National Directive for the Detention or Housing of Minors, has been updated following the introduction of two IRPR amendments.

2018-11-20

Section 3.1, Authority to detain a person, Section 3.2, Regulatory factors and conditions, Section 5.3, Grounds for detention and section 5.8 have been updated with the coming into force of the Protecting Canada's Immigration System Act.

Section 3.3, Forms and publications, available gender identities has been clarified.

Sections 5.4 to 5.8 have been moved and updated with new detention factors.

Section 5.9, Factors: mandatory arrest and detention of designated foreign national, has been created.

The section on alternatives to detention has been removed and transferred to ENF 34.

Section 5.12, Housing of minor children (under 18 years of age), has been added.

Section 5.13, Vulnerable groups, the term "vulnerable groups" has been renamed "vulnerable persons".

Sections 5.13 and 5.14, redundant text has been moved and a new jurisprudence case has been added.

Section 7, Detention: procedure, has been reshaped to facilitate its use by officers.

Section 7.2, Officer's detention notes, has been moved.

Section 7.3, Management review of detention decision, has been updated.

Section 8, Care of the detainee while awaiting transfer, and Section 8.1, Procedure: suicidal and self-harmful detainee, have been added.

Section 9.1, National risk assessment for detention, clarifications have been added regarding offences where a detainee was found not guilty, and common crime examples have been added.

Section 9.3, Vehicular transport of detainees, has been added.

Section 10, Procedure: release by officer before the first detention review, has been modified, and section 10.1 has been added with information regarding release of designated foreign nationals.

Section 12.1, Canadian Red Cross, has been updated to add information regarding the CBSA notification requests.

Annex A, Detention Checklist, has been created.

Annex C, Child protection services and family centres, was been updated with information for the Atlantic and Prairies regions.

2018-02-12

ENF 20 has been updated to reflect changes to the National Risk Assessment and Detainee Medical Needs forms. Further, changes have been made to reflect the decision-making process regarding detention. These changes will ensure that officers have clear guidance regarding detention decisions and placement of a detainee in a Canada Border Services Agency Immigration Holding Centre or provincial correctional facility.

Section 1, What this chapter is about, has been updated to add contact information.

Section 3.3, Forms and publications, has been amended, and the brochure titled "Information for People Detained Under the *Immigration and Refugee Protection Act*" has been added.

Section 5.8, Identity, has been amended to remove information contained in other sections.

Section 5.10, Detention of minor children (under 18 years of age), has been amended, and a new reference to the National Directive for the Detention or Housing of Minors has been added in Annex A.

Section 5.11, Vulnerable groups, has been moved and updated to include new vulnerable groups.

Section 5.12, Alternatives to detention, and section 5.13, Third party risk management programs, have been removed as their content will be in ENF 34.

Multiple sections have been updated to reflect the name change of Citizenship and Immigration Canada (CIC) to Immigration, Refugees and Citizenship Canada (IRCC) and of the Minister of Citizenship and Immigration to the Minister of Immigration, Refugees and Citizenship.

Section 6 has been updated with new definitions for "alternatives to detention", "best interests of the child" and "unaccompanied minor".

Section 8.1, Procedure: review of detention decision, has been created to clarify when the officer's initial detention decision must be reviewed by another officer.

Section 8.2, Informing the Immigration and Refugee Board of a detention review, has been created.

Sections 9, 9.1, 9.2 and 9.3, Transfer of a detainee, have been rewritten to include new directives regarding the national risk assessment for detention form, the detainee medical needs form and the vehicular transport of detainees.

Section 10, Procedure: release by officer, has been updated to remove information contained in other sections.

Sections 11, 11.1, 11.2 and 11.3, Place of detention, have been moved and revised to include types of detention facilities, levels of risk and new detention agreements with provincial governments.

Section 12, Detention program monitoring, has been added.

Section 13, Transitional measures, has been moved.

2015-12-22

The detention forms have been updated and converted to the CBSA numbering system (BSF304, 579, 507 E, 508 E, 566, 524, 481, 481-1, 578, 754, 754-1, 674 and 735).

Section 8, Procedure: detention, has been updated to remove information contained in other chapters.

Section 9, Procedure: national risk assessment for detention, and section 9.1, National risk reassessment for detention, have been created to include a new requirement to ensure the safety and well-being of detainees.

Section 12, Place of detention, has been amended to reflect the closure of the Kingston Immigration Holding Centre and the maximum length of detention at the Vancouver Immigration Holding Centre has been reduced to 48 hours.

Multiple sections have been updated following the Field Operations Support System (FOSS) decommissioning.

1. What this chapter is about

This chapter offers guidance to Canada Border Services Agency (CBSA) officers at ports of entry (POE) and at inland enforcement offices who are delegated to detain under the *Immigration and Refugee Protection Act* (IRPA). It also states the principles underlying CBSA's detention policy and describes the administrative and legal framework within which detention operates.

References to IRPA appear in the text with an "A" prefix followed by the section number. References to the *Immigration and Refugee Protection Regulations* (IRPR) appear with an "R" prefix followed by the section number.

Requests for clarification, questions and comments in relation to this manual should be addressed to the CBSA Detentions Unit Programs Branch's generic mailbox at Detention-Programs@cbsa-asfc.gc.ca.

2. Definitions

Any procedure under the IRPA	"Any procedure" refers to any process with regard to a person's application or status, whether it is initiated by the person, by IRCC or by the CBSA, that has arisen in the normal course of the immigration system. "Any procedure" does not include investigations.
Alternatives to detention (ATDs)	Refer to ENF 34, Alternatives to Detention
Best Interests of the Child (BIOC)	An international principle to ensure children enjoy the full and effective benefit of all their rights recognized in Canadian law and the Convention on the Rights of the Child . It is also a rule of procedure that includes an assessment of the possible impact (positive or negative) of a decision regarding the child or children concerned.
Reasonable grounds to believe	Reasonable grounds to believe are a set of facts and circumstances that would convince a normally prudent and informed person. They are not mere suspicions. The opinion must have an objective basis.
Reasonable grounds to suspect	Reasonable grounds to suspect, a lower standard than to believe, are a set of facts or circumstances that would lead the ordinarily cautious and prudent person to have a hunch or suspicion.
Protected person under A95(2)	A protected person is a foreign national on whom refugee protection is conferred under A95(1), and whose claim or application has not subsequently been deemed to be rejected under A108(3), A109(3) or A114(4).
Minor (child)	A minor is defined under the IRPA and the <i>Convention on the Rights of the Child</i> as a person under the age of 18. They are considered to be a minor in the federal context (R249).

Criminal organization within the meaning of A121.1(1)	A criminal organization within the meaning of A121.1(1) means a criminal organization as defined in <u>subsection 467.1(1)</u> of the <u>Criminal Code</u> .
Unaccompanied minor	A minor or siblings travelling together who do not arrive in Canada with their parent(s) or legal guardian(s) or do not arrive in Canada to join such a person.

3. Program objectives

A3(1) and (2), which outline the objectives of IRPA, list two objectives that are directly linked to the CBSA's responsibility for the enforcement of IRPA regarding both immigration and refugee programs:

- to protect the health and safety of Canadians and to maintain the security of Canadian society; and
- to promote international justice and security by fostering respect for human rights and by denying access to Canadian territory to persons who are criminals or security risks.

The power to detain permanent residents and foreign nationals meets these objectives by:

- protecting Canadian society by detaining those who pose a danger to the public or security risk
- supporting the removal of those who have been denied access to Canadian territory including those who are criminals, security risks, or inadmissible for crimes against humanity; and
- supporting the examination and investigation processes, which are key elements in ensuring the enforcement of IRPA.

4. The act and regulations

4.1. Authority to detain a person

The following sections identify the grounds on which an officer may arrest and detain a permanent resident or foreign national. For further information on arrest procedures, please see ENF 7, Investigations and Arrests.

For information about	Section of IRPA
Arrest and detention with warrant	A55(1)
An officer may issue a warrant for the arrest and detention of a permanent resident or a foreign national who the officer has reasonable grounds to believe is inadmissible and:	

<ul style="list-style-type: none"> • is a danger to the public; or • is unlikely to appear for examination, for an admissibility hearing, for removal from Canada or at a proceeding that could lead to the making of a removal order by the Minister under subsection A44(2). 	
<p>Arrest and detention without warrant</p> <p>An officer may, without a warrant, arrest and detain a foreign national, other than a protected person,</p> <ul style="list-style-type: none"> • who the officer has reasonable grounds to believe is inadmissible; and <ul style="list-style-type: none"> ○ is a danger to the public; or ○ is unlikely to appear for examination, an admissibility hearing, removal from Canada, or at a proceeding that could lead to the making of a removal order by the Minister under subsection A44(2); or • if the officer is not satisfied as to the identity of the foreign national in the course of any procedure under IRPA. 	A55(2)
<p>Detention on entry</p> <p>A permanent resident or a foreign national may, on entry into Canada, be detained if an officer</p> <ul style="list-style-type: none"> • considers it necessary to do so in order for the examination to be completed; or • has reasonable grounds to suspect that the permanent resident or foreign national is inadmissible on grounds of <ul style="list-style-type: none"> ○ security, ○ violating human or international rights, ○ serious criminality, ○ criminality or ○ organized criminality. 	A55(3)
<p>Mandatory arrest and detention — designated foreign national</p> <p>If a designation is made under subsection A20.1(1), an officer must</p> <ul style="list-style-type: none"> • detain, on their entry into Canada, a foreign national who, as a result of the designation, is a designated foreign national and who is 16 years of age or older on the day of the arrival that is the subject of the designation; or • arrest and detain without a warrant — or issue a warrant for the arrest and detention of — a foreign national who, after their entry into Canada, becomes a designated foreign national as a result of the designation and who was 16 years of age or older on the day of the arrival that is the subject of the designation. 	A55(3.1)
<p>Notice to the Immigration Division</p>	A55(4)

If a permanent resident or a foreign national is taken into detention, an officer shall without delay give notice to the Immigration Division.	
Release: officer An officer may order the release from detention of a permanent resident or a foreign national before the first detention review by the Immigration Division if the officer is of the opinion that the reasons for the detention no longer exist. The officer may impose any conditions, including the payment of a deposit or the posting of a guarantee for compliance with the conditions, that the officer considers necessary.	A56(1)
Minor children It is affirmed as a principle that a minor child shall be detained only as a measure of last resort, taking into account the other applicable grounds and criteria including the best interests of the child.	A60
Ministers' warrant The Minister and the Minister of Citizenship and Immigration may issue a warrant for the arrest and detention of a person who is named in a certificate if they have reasonable grounds to believe that the person is a danger to national security or to the safety of any person or is unlikely to appear at a proceeding or for removal.	A81

4.2. Regulatory factors and conditions

Regulations on detention and release have been developed under section A61. Part 14 of IRPR is constructed as follows:

Factors that shall be considered	R244
Factors: Flight risk	R245
Factors: Danger to the public	R246
Factors: Identity not established	R247
Other factors If it is determined that there are grounds for detention, the following factors shall be considered before a decision is made on detention or release: <ul style="list-style-type: none"> the reason for detention; the length of time in detention; whether there are any elements that can assist in determining the length of time that detention is likely to continue and, if so, that length of time; 	R248

<ul style="list-style-type: none"> • any unexplained delays or unexplained lack of diligence caused by the CBSA or the person concerned; and • the existence of alternatives to detention (ATDs). 	
<p>Best interests of the child</p> <p>For the purpose of paragraph 248(f) and for the application, in respect of children who are under 18 years of age, of the principle affirmed in section A60, that a minor child shall be detained only as a measure of last resort, the following factors must be considered when determining the best interests of the child:</p> <ul style="list-style-type: none"> • the child's physical, emotional and psychological well-being; • the child's healthcare and educational needs; • the importance of maintaining relationships and the stability of the family environment, and the possible effect on the child of disrupting those relationships or that stability; • the care, protection and safety needs of the child; and • the child's views and preferences, provided the child is capable of forming their own views or expressing their preferences, taking into consideration the child's age and maturity. <p>Marginal note: Degree of dependence</p> <p>For the purpose of paragraph 248(f), the level of dependency of the child on the person there are grounds to detain shall also be considered when determining the best interests of the child.</p>	R248.1
<p>Special considerations for minor children</p> <p>For the application of the principle affirmed in <u>section A60</u> that a minor child shall be detained only as a measure of last resort, the special considerations that apply in relation to the detention of minor children who are less than 18 years of age are</p> <ul style="list-style-type: none"> • the availability of alternative arrangements with local childcare agencies or child protection services for the care and protection of the minor children; • the anticipated length of detention; • the risk of continued control by the human smugglers or traffickers who brought the children to Canada; • the type of detention facility envisaged and the conditions of detention; • the availability of accommodation that allows for the segregation of the minor children from adult detainees who are not the parent of or the adult legally responsible for the detained minor children; and • the availability of services in the detention facility, including education, counselling and recreation. 	R249
<p>Applications for travel documents</p>	R250

Inadmissibility on grounds of security — conditions	R250.1
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4.3. Forms and publications

Several forms require the gender identity of detainees to ensure their safety and well-being. Detention forms will progressively be updated to reflect all available gender identities as follows: male, female and another gender. Another gender is mainly being used for individuals with a passport or other travel document with the “X” designation. In addition, transgender, queer and two-spirit individuals may also select another gender.

All relevant detention forms and publications may be filled out and signed electronically (if available). They are shown in the following table:

Form title	Form number
Order for Detention	BSF304
Detention Cell Log and Instructions	BSF481
Detention Notes	BSF508
Minister's Opinion Regarding the Foreign National's Identity (under subsection 58(1)(d) of the <i>Immigration and Refugee Protection Act</i>)	BSF510
Request for Admissibility Hearing/Detention Review Pursuant to the Immigration Division Rules	BSF524
Authority to Release from Detention	BSF566
Detention (stickers)	BSF578
Detainee Medical Needs	BSF674
Request for Release from Mandatory Detention – Exceptional Circumstances (pursuant to paragraph 58.1(1) of the <i>Immigration and Refugee Protection Act</i>)	BSF735
National Risk Assessment for Detention	BSF754
Notice of Rights Conferred by the <i>Canadian Charter of Rights and Freedoms</i> and by the Vienna Convention Following Section 55 of the <i>Immigration and Refugee Protection Act</i> Arrest or Detention	BSF776
Information for people detained under the <i>Immigration and Refugee Protection Act</i> (brochure)	BSF5012 <ul style="list-style-type: none"> • English • French • Arabic • Chinese Simplified • Chinese Traditional

	<ul style="list-style-type: none"> • Hindi • Japanese • Korean • Farsi • Portuguese • Punjabi • Russian • Spanish • Tagalog • Tamil • Urdu
Acknowledgement of Conditions – Immigration and Refugee Protection Act (IRPA)	BSF821

5. Instruments and delegations

IRPA provides officers with the discretionary authority or power to arrest and detain under section A55. Section A56 designates to officers the authority, prior to the first detention review, to release a person from detention if, in their opinion, the reasons for detention no longer exist.

Officers at ports of entry and enforcement officers working within inland offices may exercise this power. The CBSA Designation of Officers and Delegation of Authority document can be found in [IL 3](#).

6. Departmental policy

The Minister of Immigration, Refugees and Citizenship is responsible for the administration of IRPA with the exception of the areas for which the Minister of Public Safety has assumed responsibility as described below (subsection A4(2)).

The Minister of Public Safety is responsible for the administration of the Act as it relates to the following:

- examinations at ports of entry;
- the enforcement of IRPA, including arrest, detention and removal;
- the establishment of policies respecting the enforcement of IRPA and inadmissibility on grounds of security, organized criminality or violating human or international rights; or
- determinations under subsections A34(2), A35(2) and A37(2).

6.1. Principles

The CBSA is guided by the following principles governing the treatment of persons detained under IRPA:

- immigration detention is an administrative detention and must not be punitive in nature;
- persons detained under IRPA are treated with dignity and respect at all times;
- persons are detained in an environment that is safe and secure;
- persons are treated in a manner that is commensurate with the level of risk they pose to public safety or the integrity of the immigration program;
- persons are duly and appropriately considered for ATD throughout the detention continuum, which includes before every detention review;
- detention operations are conducted in a transparent manner, while respecting the privacy of the detained persons;
- a minor child shall be detained only as a measure of last resort, taking into account the other applicable grounds and criteria including the best interests of the child;
- people who are detained are informed of their legal rights, are given an opportunity to exercise their rights and are informed of the status of their case;
- feedback is welcomed by the CBSA and all detainees have access to a feedback process;
- for Immigration Holding Centres (IHC), the CBSA maintains national detention standards that incorporate international standards;
- monitoring of the CBSA's compliance with these standards will be conducted regularly by an external agency;
- in CBSA IHCs, the CBSA makes reasonable efforts to meet the physical, emotional and spiritual needs of detained persons in a way that is culturally appropriate.

6.2. General

The CBSA recognizes that to deny individuals their liberty is a decision that requires a sensitive and balanced assessment of risk. In exercising their discretionary authority to detain, officers must consider ATD, individual assessment of the case and the impact of release. Additionally, it requires a risk management approach that supports decision making within the context of the following priorities:

- where safety or security concerns are identified (including criminality, terrorism or violent behaviour);
- to support removal where removal is imminent and where a flight risk has been identified;
- where there are significant concerns regarding a person's identity including multiple identity documents, false documents, lack of travel documents or non-cooperation in assisting an officer to establish their identity.

6.3. Grounds for detention

Within Canadian territory and under the authority of subsection A55(1), an officer may issue a warrant for the arrest and detention of a permanent resident or a foreign national,

- who the officer has reasonable grounds to believe is inadmissible and:
 - is a danger to the public; or (see section 6.4)
 - is unlikely to appear for examination, for an admissibility hearing, for removal from Canada or at a proceeding that could lead to the making of a removal order by the Minister under subsection A44(2). (see section 6.5)

Within Canadian territory and under the authority of subsection A55(2), an officer may, without a warrant, arrest and detain a foreign national, other than a protected person (the term protected person is defined in subsection A95(2)),

- who the officer has reasonable grounds to believe is inadmissible; and
 - is a danger to the public; or (see section 6.4)
 - is unlikely to appear for examination, an admissibility hearing, removal from Canada, or at a proceeding that could lead to the making of a removal order by the Minister under subsection A44(2); or (see section 6.5)
- the officer is not satisfied as to the identity of the foreign national in the course of any procedure under IRPA. (see section 6.6)

On entry into Canada under the authority of subsection A55(3), an officer may detain a permanent resident or a foreign national where:

- the officer considers it necessary to do so in order for the examination to be completed; or (see section 6.7)
- the officer has reasonable grounds to suspect that the permanent resident or foreign national is inadmissible on grounds of security, violating human or international rights, serious criminality, criminality or organized criminality. (see section 6.8)

Under the authority of subsection A55(3.1), if a designation is made under subsection A20.1(1):

- the officer must detain, on their entry into Canada, a foreign national who, as a result of the designation, is a designated foreign national and who is 16 years of age or older on the day of the arrival that is the subject of the designation (see section 6.9); or
- the officer must arrest and detain without a warrant — or issue a warrant for the arrest and detention of — a foreign national who, after their entry into Canada, becomes a designated foreign national as a result of the designation and who was 16 years of age or older on the day of the arrival that is the subject of the designation. (see section 6.9)

Under section A81, the Minister of Public Safety and Emergency Preparedness and the Minister of Citizenship and Immigration may issue a warrant for the arrest and detention of a person who is named in a certificate if:

- they have reasonable grounds to believe that the person is a danger to national security or to the safety of any person or is unlikely to appear at a proceeding or for removal.

6.4. Factors: danger to the public

Where the officer assesses that an individual is inadmissible and there are reasonable grounds to believe the individual is a danger to the public, detention may be warranted if the risk the person poses cannot be mitigated through an alternative to detention (see [ENF 34, Alternatives to Detention](#)).

Prescribed factors

Section R246 outlines the following factors that must be considered in assessing danger to the public:

- a. the fact that the person constitutes, in the opinion of the Minister of Immigration, Refugees and Citizenship, a danger to the public in Canada or a danger to the security of Canada under paragraph A101(2)(b), subparagraph A113(d)(i) or (ii) or paragraph A115(2)(a) or (b);
- b. association with a criminal organization within the meaning of subsection A121.1(1);
- c. engagement in people smuggling or trafficking in persons;
- d. conviction in Canada under an Act of Parliament for
 - i. a sexual offence, or
 - ii. an offence involving violence or weapons;
- e. conviction for an offence in Canada under any of the following provisions of the *Controlled Drugs and Substances Act*, namely,
 - i. section 5 (trafficking),
 - ii. section 6 (importing and exporting), and
 - iii. section 7 (production);
- f. conviction outside Canada, or the existence of pending charges outside Canada, for an offence that, if committed in Canada, would constitute an offence under an Act of Parliament for
 - i. a sexual offence, or
 - ii. an offence involving violence or weapons; and
- g. conviction outside Canada, or the existence of pending charges outside Canada, for an offence that, if committed in Canada, would constitute an offence under any of the following provisions of the *Controlled Drugs and Substances Act*, namely,
 - i. section 5 (trafficking)
 - ii. section 6 (importing and exporting), and
 - iii. section 7 (production).

Criminal convictions

A criminal record does not necessarily mean that the individual is a threat. For example, a person who was convicted of a criminal offence and has not committed any further offences since that time might not be a danger to the public. Various factors must be weighed, such as the nature of the offences, the circumstances in which they were committed, the punishment imposed, the period of time elapsed since the offence, violent behaviour, the possibility of recidivism, and the possible consequences of releasing the person. Assessment reports by correctional services and by police may be a relevant source of information. It must be established why the presence of one or more of these factors demonstrates that the person is a danger to the public. Facts or the criminal profile should clearly outline why the individual is a danger to the public.

For information regarding persons serving a criminal sentence in a provincial or federal correctional facility, see [ENF 22, Persons serving a sentence](#).

Committing an offence in Canada

Being charged with committing an offence in Canada (i.e. a pending charge without conviction in Canada) is not listed as an inadmissibility. Although this is an important fact, unless an officer relies on additional factors or detention grounds, an individual should not be detained for danger to the public solely because they have been charged with an offence in Canada. Indeed, the presumption of innocence is a principle where each individual is considered innocent unless proven guilty. In addition, prior to their release from criminal hold, individuals who have been charged with an offence in Canada must satisfy a judicial tribunal that they can be out on bail (e.g. based on the accused's criminal record, the seriousness of the

charges, protection of the public or the alleged victim, and the likelihood that the accused might commit further offences if released).

Other factors to consider

The above factors outlined in IRPR provide a non-exhaustive list for the decision maker to consider. IRPA provides to officers and members of the Immigration Division the authority to consider all other circumstances pertaining to the case. The following are additional factors that may be relevant:

- history of violent or threatening behaviour demonstrated by the person;
- violent incidents or major breaches of a detention facility rules while in detention;
- statements, letters, photos or publication in social media of their intent to commit a violent crime;
- availability of ATD and whether sufficient to mitigate the danger to the public risk;
- suspected or known untreated addictions or mental illness linked to a violent behaviour; and
- pattern of criminal behaviour.

Mental health

There may be reasonable grounds for thinking that an individual suffering from an untreated mental illness is a danger to the public (for example, unstable violent behaviour toward an officer during interaction). Instability of the person associated with mental imbalance at the time of the interview may be an important indicator in the assessment of the danger, and may point to future violent behaviour. Following the detainee's transfer to a detention facility, healthcare professionals will be able to provide assistance and to indicate what action should be taken in this type of case. If the mental illness is under control but requires medication upon release, consideration should be given to the accessibility of such medication to the detainee.

See section 6.14 for more detail on long-term detention and jurisprudence.

6.5. Factors: unlikely to appear (flight risk)

Where the officer assesses that an individual is inadmissible and there are reasonable grounds to believe the individual is unlikely to appear for an examination, an admissibility hearing, removal or at a proceeding that could lead to the making of a removal order by the Minister under subsection A44(2), detention may be warranted if the risk the person poses cannot be mitigated through an alternative to detention (see [ENF 34, Alternatives to Detention](#)).

Prescribed factors

Section R245 outlines the factors to be taken into account when assessing flight risk:

- a. being a fugitive from justice in a foreign jurisdiction in relation to an offence that, if committed in Canada, would constitute an offence under an Act of Parliament;
- b. voluntary compliance with any previous departure order;
- c. voluntary compliance with any previously required appearance at an immigration or criminal proceeding;
- d. previous compliance with any conditions imposed in respect of entry, release or a stay of removal;

- e. any previous avoidance of examination or escape from custody, or any previous attempt to do so;
- f. involvement with a people-smuggling or trafficking-in-persons operation that would likely lead the person to not appear for a measure referred to in paragraph R244(a) or to be vulnerable to being influenced or coerced by an organization involved in such an operation to not appear for such a measure; and
- g. the existence of strong ties to a community in Canada.

Other factors to consider

The above factors outlined in IRPR provide a non-exhaustive list for the decision maker to consider. The Act provides both officers and members of the Immigration Division with the authority to consider all other circumstances pertaining to the individual's case. The following are additional factors that may also be present and relevant:

- no fixed place of residence or attachment in Canada;
- removal is imminent;
- presence of relatives or friends in Canada who can exert influence over the individual, who are prepared to provide a guarantee or surety;
- the individual's cooperation with the authorities to obtain a travel document (for removal);
- availability of ATD and whether sufficient to mitigate the unlikely to appear risk; and
- suspected or known untreated mental illness causing disorientation or confusion.

The mere presence of any of the above factors should not automatically lead to detention. The factors must be considered in the context of all the circumstances in the case. For example, the person may be indigent; however, this does not constitute proof that the person will not appear. Much would depend on the officer's global assessment of the behaviour of the individual as demonstrated during the interview as well as all other circumstances of the case.

It is essential that officers are aware that the unlikelihood to appear may change as the various immigration processes unfold. For example, an individual claiming refugee protection may not be unlikely to appear at the time of the initial claim but may become unlikely to appear on the issuance of a negative determination by the Immigration and Refugee Board (IRB). Similarly a person appealing their removal order may not be unlikely to appear while that matter is being reviewed but may become unlikely to appear following a negative decision.

Delays in removal process

Officers may encounter situations where a person is unlikely to appear for removal but the removal is not imminent or the date is unknown due to factors outside the control of the individual (e.g. stay of removal, lack of cooperation of a foreign government to deliver a travel document, lengthy appeal process). In these situations, unless officers rely on other detention grounds, officers should give additional weight to the use of ATD so as to avoid potentially lengthy detention while removal arrangements are being worked out.

However, if the removal has been delayed due to the individual's lack of cooperation (e.g. refusal to sign a travel document application or to attend an appointment with a foreign mission), then the detention may be maintained. A lack of cooperation on the part of the individual must be noted on the file. See section 6.14 for more detail on long-term detention and jurisprudence.

6.6. Factors: identity not established

Where the officer is not satisfied as to the identity of the foreign national, other than a protected person, in the course of any procedure under this Act, detention may be warranted if the risk the person poses cannot be mitigated through an alternative to detention (see [ENF 34, Alternatives to Detention](#)).

“Any procedure” refers to any process with regard to a person’s application or status, whether initiated by the person or by IRCC or the CBSA, that has arisen in the normal course of the immigration system. The procedures under IRPA include examinations, refugee claims, Ministerial determinations, admissibility hearings, etc. An investigation is not a procedure.

Prescribed factors

Subsection R247(1) outlines the factors to be taken into account when assessing identity risk:

- a. the foreign national’s cooperation in providing evidence of their identity or assisting the officers in obtaining evidence of their identity, in providing the date and place of their birth and the names of their mother and father, in providing detailed information on the itinerary they followed in travelling to Canada or in completing an application for a travel document;
- b. in the case of a foreign national who makes a claim for refugee protection, the possibility of obtaining identity documents or information without divulging personal information to government officials of their country of nationality or, if there is no country of nationality, their country of former habitual residence;
- c. the destruction of identity or travel documents or the use of fraudulent documents in order to mislead officers, and the circumstances under which the foreign national took those actions;
- d. the provision of contradictory information with respect to identity at the time of an application to the CBSA or IRCC; and
- e. the existence of documents that contradict information provided by the foreign national with respect to their identity.

Minor children

Subsection R247(2) directs that a minor child’s failure to cooperate in providing evidence of their identity or assisting must not have a negative impact on the assessment of the case (that is, non-cooperation in itself should not lead to a detention decision). Identification efforts must be actively pursued and expedited.

Other factors to consider

The above factors outlined in IRPR provide a non-exhaustive list for the decision maker to consider. IRPA provides officers and members of the Immigration Division with the authority to consider all other circumstances pertaining to the individual’s case. The following are additional factors that may be present and relevant:

- whether the person is credible;
- whether differences in identities (names) provided resulted from language differences or interpretation difficulties;
- the result of a linguistics assessment;

- whether the person accepts to be interviewed by the embassy of the country of which the officer thinks the person is a citizen (does not apply to asylum seekers with a pending claim at the IRB);
- the officer's opinion that the identity of the foreign national may be established; and
- the officer's efforts to establish the identity of the foreign national.

Detention for identity may be considered where the officer is not satisfied as to the person's identity and identity issues need to be resolved for safety, security or inadmissibility concerns to be addressed to the satisfaction of the officer. This includes, but is not limited to, multiple identity documents, fraudulent documents, a lack of documents, a lack of credibility and non-cooperation to establish identity.

Cooperation to establish identity

The officer must inform the detainee and their counsel that they can assist with the identification process by providing complete information and by personally attempting to obtain documentary evidence from their country of origin.

Officers may encounter situations where a person has cooperated with the CBSA by providing relevant information, but their identity has not been established due to factors outside their control (e.g. lack of cooperation of a foreign government in delivering a travel document, ongoing civil war in the country of origin). In these situations where officers have reached an impasse, unless officers rely on other detention grounds, officers should give additional weight to the use of ATD so as to avoid potentially lengthy detention while identification procedures continue.

However, if a person's identity has not been established due to their lack of cooperation (e.g. refusal to sign a travel document application or to attend an appointment for a linguistic assessment), then the detention may be justifiably maintained. A lack of cooperation on the part of the individual must be noted in the detention notes. See section 6.14 for more detail on long-term detention and jurisprudence.

Evidence of research into identity

Given paragraph A58(1)(d), the Minister is required to demonstrate the possibility of establishing the identity of the person concerned within a reasonable period of time. Officers responsible for the identity investigation must follow each case closely and document any efforts made to establish the person's identity. Any actions undertaken or external delay shall be noted (e.g. phone calls to person's relatives). At the detention review, evidence must be provided to the Immigration Division that the Minister is taking the necessary steps to establish the identity of the person. Some situations will require inquiries with national (e.g. National Document Centre, liaison officers, IRCC, the Royal Canadian Mounted Police [RCMP]) and international enforcement agencies (e.g. foreign governments), which may take time. Officers must demonstrate they have worked diligently to obtain the missing evidence (e.g. fingerprint results).

6.7. Factors: detention on entry to complete the examination

The power of officers to detain "on entry into Canada" in order for the examination to be completed (paragraph A55(3)(a)) may only be exercised at a port of entry. The detaining officer has to justify their attempts to complete the examination and state when the examination is expected to resume and to be completed. The detaining officer has the responsibility to resume the examination upon the detainee's return to the port of entry, unless other arrangements have been made with another port or entry or inland

enforcement office. Officers should attempt to complete the examination of an individual, and if an officer is unavailable, the case should be assigned to another available officer to fully assess and complete the examination. Officers can detain a foreign national in order for the examination to be completed if their other options for dealing with incomplete examinations (e.g. direct back [section R41], entry to complete examination [section A23], deposit [section R45]) are not available or cannot mitigate the risk. For more information on options for dealing with inadmissibility and incomplete examinations, see ENF 4, Port of Entry Examinations.

Here are some situations where detention to complete the examination may be justified for foreign nationals seeking temporary resident status:

- An inadmissible foreign national wishes to withdraw his application at a port of entry (airport) late in the evening. The foreign national is unable to leave the port of entry because the last returning flight has already left and no other returning flight is available for the next two days. The officer believes that if the foreign national remains in Canada, he will pose a danger to the public. The officer has considered other options for dealing with incomplete examinations and ATD; however, none of them can mitigate the risk or is available at that time of day. The officer decides to detain the foreign national until the next return flight is available. Later, the foreign national is brought back to the port of entry and released before the first detention review. The return flight is now available, and the officer completes the examination by allowing the foreign national to withdraw his application.
- A foreign national requests admission at a port of entry (airport) late in the evening. The officer has reasonable grounds to suspect that her Canadian visa may have been improperly obtained, and an interview is necessary to confirm her doubts. Despite multiple attempts, the officer is unable to obtain the services of an interpreter to communicate with the traveller, and local airport policies prohibit travellers from staying overnight at that airport. The officer believes that if the foreign national remains in Canada, she is unlikely appear for the examination. The officer has considered other options for dealing with incomplete examinations and ATD; however, none of them can mitigate the risk or is available at that time of day. The officer decides to detain the foreign national until the next day. The next morning, the foreign national is brought back to the port of entry and released before the first detention review. The officer has reached an interpreter and the examination resumes. Following the interview, the officer is satisfied that the Canadian visa was properly delivered and the foreign national is authorized to enter Canada.

Permanent residents

Officers must remain cognizant of the fact that subsection A19(2) gives permanent residents of Canada the right to enter Canada at a port of entry once it is established that a person is a permanent resident, regardless of non-compliance with the residency obligation in section A28 or the presence of another inadmissibility. While permanent residents seeking entry into Canada may be detained, officers at ports of entry should not detain a permanent resident solely in order for the examination to be completed. See section 6.8 below, which outlines procedures for when a permanent resident is suspected to be inadmissible on grounds of security, violating human or international rights, serious criminality, criminality or organized criminality.

Urgent medical treatment

When a person requires urgent medical treatment, the transport of the person by ambulance to a hospital should not be delayed because of an administrative process. At ports of entry, officers should not detain a

person requiring urgent medical treatment in order for the examination to be completed, unless their other options for dealing with incomplete examinations cannot mitigate the risk. For example, an entry to complete examination under section A23, the seizure of the travel documents and the name of the hospital may be sufficient to handle most cases. Therefore, there is no need to escort the client to the hospital as the person is not detained. Once the person has recovered from their urgent health condition, they will be able to return to the CBSA office to resume the examination. For more information on incomplete examinations, see [ENF 4, Port of Entry Examinations](#).

Moreover, officers must not detain a person for the sole purpose of issuing them Interim Federal Health Program (IFHP) coverage to cover the healthcare expenses. Healthcare expenses of people who are not eligible for the IFHP must be assumed by the person concerned and/or their public or private health insurance. For more information on the IFHP, see [IR 10, Interim Federal Health Program](#).

6.8. Factors: detention on entry for suspected inadmissibility on grounds of security, violating human or international rights, serious criminality, criminality or organized criminality

The power of officers to detain “on entry into Canada” may only be exercised at a port of entry where the officer has reasonable grounds to suspect that the permanent resident or the foreign national is inadmissible on grounds of security, violating human or international rights, serious criminality, criminality or organized criminality (paragraph A55(3)(b)), and it should never be used solely for administrative convenience.

The standard of proof set under paragraph A55(3)(b), reasonable grounds to suspect, is lower than reasonable grounds to believe, which allows officers to arrest and detain with or without warrant under sections A55(1) and A55(2). If enough evidence is gathered to confirm the inadmissibility, the grounds for detention and the detention notes should be updated.

Evidence of research into inadmissibility

The purpose is to enable officers to obtain further relevant documents, information or other evidence to determine individual admissibility. The officer shall pursue their research to establish whether the person is inadmissible during the period of detention. Any actions undertaken, external delay and awaiting results must be noted. At the detention review, evidence must be provided to the Immigration Division that the Minister is taking the necessary steps to inquire into the reasonable suspicion that the permanent resident or foreign national is inadmissible on grounds listed above. Some situations will require inquiries with national (e.g. National Security Screening Division, liaison officers, IRCC, the RCMP or Canadian Security Intelligence Service [CSIS]) and international enforcement agencies (e.g. Interpol), which may take time. Officers must demonstrate they have worked diligently to obtain the missing evidence (e.g. criminal convictions, intelligence information or lookouts). For more information regarding the evidence required to find a person inadmissible as described in these sections, see [ENF 1, Inadmissibility](#).

Originating office

If an officer has reasonable grounds to suspect that the permanent resident or the foreign national is inadmissible on grounds of security, violating human or international rights, serious criminality, criminality or organized criminality, the officer should write it in their detention notes regardless of whether the

detention began at a port of entry or in Canada, as they may be used for the detention review. Indeed, an individual who has initially been detained on specific grounds such as danger to the public, unlikely to appear, or identity not established, can subsequently have their detention continued on the basis that the Minister is taking necessary steps to inquire into a reasonable suspicion that they are inadmissible on grounds of security, violating human or international rights, serious criminality, criminality or organized criminality (A58(1)(c)).

6.9. Factors: mandatory arrest and detention of designated foreign national

Under paragraph A55(3.1)(a) or (b), if a designation is made by the Minister under subsection A20.1(1), an officer must detain, arrest or issue a warrant for the arrest and detention of a designated foreign national (DFN) who is or was 16 years of age or older on the day of the arrival that is the subject of the designation.

Subsection A20.1(1) stipulates that the Minister may, by order, having regard to the public interest, designate as an irregular arrival the arrival in Canada of a group of persons if he or she:

1. is of the opinion that examinations of the persons in the group, particularly for the purpose of establishing identity or determining inadmissibility – and any investigations concerning persons in the group – cannot be conducted in a timely manner, or
2. has reasonable grounds to suspect that, in relation to the arrival in Canada of the group, there has been, or will be, a contravention of subsection A117(1) for profit, or for the benefit of, at the direction of or in association with a criminal organization or terrorist group.

When a designation is made, a foreign national who is part of the group whose arrival is the subject of the designation becomes a DFN. DFNs are subject to mandatory arrest and detention and a revised detention review timeline of within 14 days and then every six months thereafter. The CBSA must arrest and detain all DFNs who were 16 years of age or older at the time of the arrival, where the designated irregular arrival occurred on or after June 28, 2012.

Mandatory detention does not apply to DFNs who are 15 years of age or younger on the day of arrival.

For more information, consult the [Designated Irregular Arrivals Standard Operating Procedures](#).

6.10. Other regulatory factors and best interests of the directly affected child

Prescribed factors

Section R248 outlines the factors the officer or the Immigration Division shall consider before making a decision on detention or release:

- a. the reason for detention;
- b. the length of time in detention;
- c. whether there are any elements that can assist in determining the length of time that detention is likely to continue and, if so, that length of time;

- d. any unexplained delays or unexplained lack of diligence caused by the CBSA or the person concerned;
- e. the existence of alternatives to detention; and
- f. the best interests of a directly affected child who is under 18 years of age (for more information, see the section below).

Various ATDs are available, and officers must consider them prior to detention and while the individual remains in detention. Officers should consider the individual's immigration history and potential risk against the maximum risk that can be mitigated through each ATD. Of note remains the fact that accessibility to ATDs may differ between ports of entry and inland enforcement offices. The availability of ATDs may be impacted by the time or day of the arrest as some of them require involvement from third parties (e.g. guarantor and service provider). For more information on the ATD Program, see [ENF 34, Alternatives to Detention](#).

Should an ATD have been considered appropriate but not have been accessible or available at the time of the detention (e.g. a potential guarantor was identified but they could not appear at the office, a bed in a mandatory residency facility is not available), it should be included in the detention notes because hearings officers may make an application for an early detention review if continued detention is no longer justified.

Best interests of a directly affected child

Subsection R248(f) requires that the best interests of a directly affected child who is under 18 years of age shall be considered before a decision is made on detention or release. There is no limitation regarding the directly affected child's location (i.e. in Canada or abroad) or whether the minor is detained, housed or released. However, subsection R248.1(2) stipulates that the level of dependence of the child on the person there are grounds to detain shall be considered when determining the best interests of the child. To assess the best interests of a directly affected child or the best interests of the child when the child is detained, subsection R248.1(1) provides a non-exhaustive list of factors that officers and Immigration Division members must consider:

- a. the child's physical, emotional and psychological well-being;
- b. the child's healthcare and educational needs;
- c. the importance of maintaining relationships and the stability of the family environment, and the possible effect on the child of disrupting those relationships or that stability;
- d. the care, protection and safety needs of the child; and
- e. the child's views and preferences, provided the child is capable of forming their own views or expressing their preferences, taking into consideration the child's age and maturity.

6.11. Detention of minor children (under 18 years of age)

A minor child may be detained if grounds for detention exist under section A55. It is affirmed as a principle that a minor child shall be detained only as a measure of last resort, taking into account other applicable criteria including the best interests of the child (BIOC) (section A60). However, additional precautions exist and more factors have to be taken into consideration. For appearances before the IRB, subsection A167(2) provides that a representative shall be designated for any person who is under 18 years of age or who, in the opinion of the Division, is unable to understand the nature of the proceedings.

For more information on detention review, see [ENF 3, Admissibility, Hearings and Detention Review Proceedings](#).

Prescribed factors

Section R249 identifies the special considerations that apply in relation to the detention of minor children under 18 years of age. These considerations are described as follows:

- a. the availability of alternative arrangements with local childcare agencies or child protection services for the care and protection of the minor children;
- b. the anticipated length of detention;
- c. the risk of continued control by the human smugglers or traffickers who brought the children to Canada;
- d. the type of detention facility envisaged and the conditions of detention;
- e. the availability of accommodation that allows for the segregation of the minor children from adult detainees who are not the parent of or the adult legally responsible for the detained minor children; and
- f. the availability of services in the detention facility, including education, counselling and recreation.

For complete information on the detention of a minor, see Annex B, [National Directive for the Detention or Housing of Minors](#).

6.12. Housing of minor children (under 18 years of age)

A housed minor is a foreign national, permanent resident or Canadian citizen who, after the completion of a BIOC assessment, is kept with their detained parent(s) or legal guardian(s) at an IHC at the latter's request.

A housed minor is not subject to an Order for Detention and is free to remain in and re-enter the IHC subject to consent of the parent(s) or legal guardian(s) in accordance with the rules and procedures of that facility. No detention-related forms should be issued for a housed minor as they are not detained. This includes the Detainee Medical Needs, as these forms are only issued where the IRPA grounds for detention of the minor are met. However, tracking of housed minors in the National Case Management System (NCMS) is required. See section 9.1, Data entry, for more details.

For complete information on the housing of a minor, see Annex B, [National Directive for the Detention or Housing of Minors](#).

6.13. Vulnerable persons

A vulnerable person in the detention context is defined as a person for whom detention may cause a particular hardship. Vulnerable persons must clearly be identified on the National Risk Assessment for Detention (NRAD) form (see section 9.5). For persons falling into one or more of these categories, officers should apply the principle that where there is no danger to the public, detention is to be avoided. Detention of a vulnerable person is not precluded where the individual is considered a danger to the public. However, it should be for the shortest period of time and should be focused on supporting imminent removal. Vulnerable persons are:

- pregnant women and nursing mothers;
- minors (under 18 years of age) (see section 6.11, Detention of minor children);
- persons suffering from a severe medical condition or disability (see note 1 below);
- persons suffering from restricted mobility (see note 1 below);
- persons with a suspected or known mental illness (includes suicidal and self-harmful persons);
and
- victims of human trafficking (see note 2 below).

Note 1: To assess if a person's medical condition, disability or restricted mobility is severe enough to cause a particular hardship, the officer must take into account the detention facility and available services. The officer must believe that the person cannot be properly managed within the detention facility in comparison with another detainee without the vulnerability (for instance, a person requires a walker but the detention facility does not offer this kind of service). When in doubt that a person can be satisfactorily managed within a detention facility, officers should make a decision in consultation with an officer who works at an IHC, a detention liaison officer (DLO) or a designated regional representative.

Note 2: Victims or suspected victims of human trafficking should never be kept or be in contact with their trafficker, if known.

6.14. Long-term detention and jurisprudence

The CBSA considers all detentions that have lasted over 99 days to be long-term detentions. As is done for each detention, officers should actively determine if ATDs could be available or suitable to mitigate the risk. In cases of long-term detention, officers should carefully document each effort or progress that has been made to reach an immigration purpose (e.g. to establish the identity or to remove an individual). A detention must come to an end if it no longer serves an immigration purpose. Pursuant to paragraph A58(1)(d), the Minister's representative is required to demonstrate the possibility of establishing the identity of the person concerned within a reasonable period of time to justify continued detention on such grounds. Officers responsible for the identity investigation must follow each case closely and document any efforts made to establish the person's identity. This will demonstrate that the CBSA is making progress and that the individual's detention is not indefinite. Long-term detentions are more justifiable where one of the following situations occurs:

- the detained individual is a danger to the public;
- ATDs and conditions cannot sufficiently mitigate the danger to the public or the unlikelihood to appear; or
- delays can be attributed primarily to the detainee, as a result of their refusal to cooperate with the CBSA in achieving the applicable enforcement outcome.

Jurisprudence

In Sahin v. Canada (Minister of Citizenship and Immigration), [1995] 1 FC 214, the Federal Court ruled that persons cannot be held indefinitely under the provisions of the *Immigration Act*. There has to be an end to the process in view. This ruling has been quoted several times in several judgements, even though it refers to the former *Immigration Act*. In this case, the reason for detention was that, in the opinion of the adjudicator, the subject would not report for removal if required to do so. The Court's decision in this case set out a four-part test regarding detention. These four factors have been integrated into section R248.

- The first is that there is a stronger case for justifying a longer detention for someone considered a danger to the public.
- The second concerns the length of future detention: if it cannot be ascertained, the facts would favour release.
- The third is a question of who is responsible for any delay: unexplained delay or even unexplained lack of diligence should count against the offending party.
- The fourth is the availability, effectiveness and appropriateness of ATDs such as outright release, bail bond and periodic reporting.

In Lunyamila v. Canada (Public Safety and Emergency Preparedness), 2016 FC 1199, the Federal Court ruled that persons who are a danger to the public or a flight risk and who are not cooperating with the Minister's efforts to remove them from Canada must continue to be detained until such time as they cooperate with their removal, except in exceptional circumstances. However, release might be justified in an exceptional circumstance, such as when there have been unexplained and very substantial delays by the Minister that are not attributable to the detained person's lack of cooperation or to an unwillingness on the part of the Minister to incur substantial costs that would be associated with pursuing non-speculative possibilities for removal. Where a person is a danger to the public, the greater the risk that the public would be required to assume under a particular alternative to detention, the more this factor should weigh in favour of continued detention.

In Canada (Public Safety and Emergency Preparedness) v. Ismail, [2015] 3 FCR 53, 2014 FC 390, the Federal Court determined that there is nothing in subsection A58(1) that ties the ability of the Immigration Division to continue to detain an individual under that provision to the original grounds of detention under section A55. It is thus apparent on the face of the legislation that an individual may originally be detained by an officer for one reason, on the basis of one standard, but may later be denied release by the Immigration Division on a different ground, and on the basis of a different standard.

7. Detention facilities

In the administration of the immigration detention program, the CBSA uses multiple detention facilities to detain individuals under the IRPA. The placement in and transfer of detainees to a detention facility are guided by their NRAD score, factors of their case and location. Under section A142, CBSA officers may direct certain individuals to detain a permanent resident or a foreign national on behalf of the CBSA. Moreover, section A143 provides that these individuals have the authority to detain a person with respect to whom an order to detain is made on behalf of the CBSA [BSF304]. These provisions read as follows:

A142 Every peace officer and every person in immediate charge or control of an immigrant station shall, when so directed by an officer, execute any warrant or written order issued under this Act for the arrest, detention or removal from Canada of any permanent resident or foreign national.

A143 A warrant issued or an order to detain made under this Act is, notwithstanding any other law, sufficient authority to the person to whom it is addressed or who may receive and execute it to arrest and detain the person with respect to whom the warrant or order was issued or made.

Immigration holding centres

The IHC should always be the default detention facility if risk can be mitigated, in regions where those facilities are available. Individuals detained under the IRPA who have scored 0 to 4 points and 5 to 9 points (if risk can be mitigated in an IHC) on the NRAD form [BSF754] should be held in an IHC. The CBSA operates four regional IHCs:

- The Laval IHC has a maximum capacity of 144 detainees. It is located at 200 Montée St-François, Laval, QC H7C 1S5. Laval IHC serves the following regions: Quebec, Atlantic and Northern Ontario (Cornwall and Ottawa exclusively).
- The Toronto IHC has a maximum capacity of 195 detainees. It is located at 385 Rexdale Blvd, Toronto, ON M9W 1R9, near the Pearson International Airport. Toronto IHC serves the following regions: Greater Toronto Area, Southern Ontario and Northern Ontario (except Cornwall and Ottawa).
- The Vancouver IHC has a maximum capacity of 24 detainees. It is located at #113, 5000 Miller Road, Richmond, BC V7B 1K6, inside the Vancouver International Airport. This facility is only for short stays of up to 48 hours, and it serves the Pacific Region. It will be replaced by the Surrey IHC.
- The Surrey IHC is being constructed, and it will have a maximum capacity of 73 detainees. It will be located at 13130 76th Avenue, Surrey, BC V3W 2V6. Surrey IHC will serve the following regions: Pacific and Prairies.

Provincial correctional facilities

Provincial correctional facilities are used in regions where placement in an IHC is not available. This includes individuals detained over 48 hours in the Pacific Region until the construction of the Surrey IHC has been completed.

In addition, individuals detained under IRPA who have a total score of 5 to 9 points (if risk cannot be mitigated in an IHC) and 10 points and more on the NRAD form [BSF754] should be held in a provincial correctional facility.

The CBSA has several arrangements and bilateral agreements with provincial governments to allow the use of provincial correctional facilities by CBSA detainees. Currently, the CBSA has bilateral agreements with the following provinces for the purpose of immigration detention: Alberta (2006), Ontario (2015), Quebec (2017) and British Columbia (2017).

Police stations

In some regions, detainees are detained at police stations or local RCMP detachments for a few days or less until being transferred to a provincial correctional facility or to CBSA custody. This is more common in isolated communities where no IHC or provincial correctional facility is in near proximity.

8. Detention program monitoring

The CBSA conducts internal reviews of its detention program. These reviews help ensure operational alignment with CBSA's national detention standards, adherence to national detention policies and directives, as well as consistency in officers' decisions, enabling effective management of the program and continual process improvement. In addition, the CBSA's detention program is monitored by other organizations. Their regular independent and unbiased reviews have been key in ensuring that reviews and recommendations are transparent, impartial and in the best interest of immigration detainees.

8.1. Canadian Red Cross

Since 1999, through arrangements with the federal government, the Canadian Red Cross (CRC) has been independently monitoring the CBSA's immigration detention program to ensure that persons detained pursuant to the IRPA are held and treated in accordance with applicable domestic standards and in compliance with international instruments to which Canada is a signatory. During this time, the CRC has conducted site visits to IHCs, provincial correctional facilities and other detention facilities across Canada and has provided important feedback and expert advice on policies and programs to the CBSA through their annual reports, detainee visits, communication and regular meetings.

In 2017, a contract was awarded to the CRC for the monitoring of Canada's immigration detention program to ensure that the CBSA's immigration detention program meets both national and international immigration detention standards. Under the contract, the CRC conducts ongoing site visits throughout the year, reports on its findings and provides recommendations to detention authorities to help improve the overall immigration environment for detainees. To this end, the CBSA collaborates with the CRC, and both parties have agreed to the following:

- The CBSA will provide the CRC unfettered access to all persons being held in detention facilities under the control and management of the CBSA. As required, the CBSA will escort the CRC and its resources into IHC facilities and areas where they will meet with immigration detainees to conduct their confidential meetings.
- In cases where the CRC is denied access to non-CBSA facilities, the CBSA region or Headquarters will endeavour, to the fullest extent possible and subject to any lawful limitations, to facilitate access to immigration detainees being held in detention facilities under the control and management of other federal, provincial, territorial or municipal authorities.
- Following the initial detention review by the IRB and after 48 hours, in accordance with the legislative and/or procedural protocols established by the CBSA, the CBSA will notify the CRC's established point(s) of contact of unaccompanied minors under the age of 18 being detained or housed in detention and/or persons who are unable to appreciate the nature of proceedings before the IRB.
- The CBSA will provide limited information regarding a detainee's case history (e.g. country of origin, gender, ethnicity, language of origin) as required by the CRC to effectively conduct monitoring visits with detainees and as relevant to assess detention operations. These data will not identify any individuals and are not considered personal information.
- The CBSA will notify the CRC when an emerging issue or incident occurs (e.g. hunger strike, allegation of abuse, death incident) so that the CRC may conduct a monitoring visit to ensure the well-being of other detainees and the health of the detention environment.

CBSA notification requests

- Unaccompanied minors: At first contact with an unaccompanied minor, CBSA regional management will notify the CRC in writing as soon as possible by sending an email message to IDMP@REDCROSS.CA. In the subject line, CBSA regional management is to indicate: "CBSA Notification Request: Unaccompanied Minors" and the facility or location where the minor is being held.
- Persons unable to appreciate IRB proceedings: CBSA regional management will follow the same communication protocol and send an email to the CRC generic email box with the following in the subject line: "CBSA Notification Request: Persons Unable to Appreciate IRB Proceedings".
- Emerging issues: Following the same communication protocol, CBSA regional management will also notify the CRC when an emerging issue or incident occurs such as a hunger strike, a protest, allegations of abuse, or lockdown.
- Death in custody: Following a death in custody, the CRC is not expected to intervene while the provincial authority undertakes its investigation. However, CBSA regional management will notify the CRC of the death in custody in order for the CRC to conduct a monitoring visit of immigration detainees held in the detention facility to ensure their continued well-being and a healthy detention environment following this incident.

8.2. United Nations High Commissioner for Refugees (UNHCR)

All CBSA facilities are subject to independent monitoring of detention standards by the UNHCR. Canada is a signatory to the 1951 [Convention Relating to the Status of Refugees](#) and the 1967 [Protocol Relating to the Status of Refugees](#). Under article 35 of the Convention, Canada is required to cooperate with the UNHCR in the exercise of its functions and will, in particular, facilitate its duty of supervising the application of the provisions of this Convention. In order to enable the UNHCR to finalize performance management reports, Canada is required to provide the UNHCR thorough information and statistical data requested concerning the following:

- the condition of refugees;
- progress in implementing this Convention; and
- laws, regulations and decrees that are, or may be in the future, in force relating to refugees.

Refugee claimants should be able to contact and be contacted by the local UNHCR office.

9. Procedure: detention

Arrest

Under subsections A55(1) and (2), an officer may arrest and detain a person. For complete information on the procedures for arrest under the IRPA, see [ENF 7, Investigations and Arrests](#), section 15.

Under subsection A55(3), an officer may detain a person on entry to Canada. This difference is due to the fact that the person is already within the CBSA's control and thus arrest is not necessary.

Detention

The following table contains the main tasks that must be completed to detain an individual under the IRPA.

Task	Responsibility and References	Uploaded to GCMS	Paper copies			
			Case file	Detainee or designated representative	Detention Facility	IRB
Ensure that the Notice of Rights Conferred by the Canadian Charter of Rights and Freedoms and by the Vienna Convention Following Section 55 Immigration and Refugee Protection Act Arrest or Detention [BSF776] has been completed.	Officer See ENF 7, Investigation and Arrests	X	X	X		
Use an accredited interpreter where a detainee does not understand one of Canada's official languages to ensure procedural fairness and fill out the Interpreter Declaration form [IMM1265B].	Officer See Using the services of an accredited interpreter		X			
Search the detainee for officer safety.	Officer See ENF 12, Search, Seizure, Fingerprinting and Photographing					
Photograph and fingerprint the detainee, if not already done during the arrest process.	Officer See ENF 12, Search, Seizure, Fingerprinting and Photographing		X			
Query the National Crime Information Center (NCIC), authorized usage: officer/public safety concerns. Query the Canadian Police Information Centre (CPIC).	Officer		X			
Give the detainee the brochure "Information for people detained under the Immigration and Refugee Protection Act" [BSF5012] and any other regional detention facility information.	Officer See section 4.3 to select one of the 16 languages available			X		
Conduct a visual check or video monitoring of detainees while in short-term detention rooms or cells at least once every 15 minutes. Fill out Detention Cell Log and Instructions form [BSF481]. If a detainee is believed to be suicidal or self-harmful, constant visual or video monitoring is required.	Officer or contracted security guards See section 10, Care of detainees while in short-term detention rooms or cells	X	X			
Fill out the Detention Notes form [BSF508] and explain the case history, the applicable detention and release factors and the pursued enforcement objective. Explain how the best interests of a directly affected child and ATDs have been considered and if they would be deemed appropriate at a later time.	Officer See section 9.2, Detention notes	X	X	X		X
Only for detentions where the identity of a foreign national has not been established, fill out the Minister's Opinion Regarding the Foreign National's Identity (under paragraph 58(1)(d) of the Immigration and Refugee Protection Act) form [BSF510].	Minister's delegate (superintendent, manager, hearings officer)	X	X			X
Data entry in GCMS and NCMS or make arrangements with the closest inland enforcement office for the earliest possible data entry in NCMS.	Officer See section 9.1, Data entry					

If the detention continues and the detainee will be placed in or transferred to a detention facility, all paper copies given to the detainee must not have any staples or paper clips to ensure that they can be brought in the detention facility. In addition, the following tasks must be completed:

Task	Responsibility and References	Uploaded to GCMS	Paper copies			
			Case file	Detainee or designated representative	Detention Facility	IRB
Fill out the Detainee Medical Needs form [BSF674].	Officer See section 9.4, Detainee medical needs	X	X	X	X	
Fill out the National Risk Assessment for Detention form [BSF754].	Officer See section 9.5, Placement: national risk assessment for detention	X	X	X	X	
Management review (part 1) of the legal authority and detention placement. The name of the reviewing manager must be added to the NRAD form by the officer.	Management See section 9.6 Management review of detention cases					
Fill out the Order for Detention form [BSF304].	Officer See section 9.3, Order for Detention	X	X		X	
If the detainee will be transported by contracted security guards, notify the contracted security guards of all transport request as soon as practicable to minimize any delay.	Officer See section 11.6, Transport					
Provide in writing to the detainee the name, address and telephone number of the detention facility with any other regional detention facility information. If the detainee will be detained in a provincial correctional facility, give the DLO's or designated officer's contact information as well.	Officer			X		
Fill out the Request for Admissibility Hearing/Detention Review Pursuant to the Immigration Division Rules form [BSF524], notify the IRB – Immigration Division and save in GCMS evidence (e.g. copy of the facsimile receipt) that the IRB – Immigration Division has been informed.	Officer	X	X			X
Management review (part 2) – quality review of detention cases.	Management See section 9.6, Management review of detention cases					
Notify the Canadian Red Cross by sending an email to IDMP@REDCROSS.CA and keep the email for each case involving unaccompanied minors, persons unable to appreciate IRB proceedings, emerging issues and death in custody.	CBSA regional management See section 8.1, Canadian Red Cross		X			

9.1. Data entry

Detention tracking information is very time sensitive and must be entered into the Global Case Management System (GCMS) and the National Case Management System (NCMS) databases as soon

as possible. Both systems are used to track detainee cases and to produce statistics for detention program management and for the public.

GCMS

Most detention forms, such as an Order for Detention, are available in GCMS, which allows officers to fill them out electronically. To ensure consistency and the ability to track cases, all GCMS-generated detention forms must be saved in the associated activity (for example, examination, arrest).

Some detention forms, such as the National Risk Assessment for Detention and Detainee Medical Needs forms, are currently available only as a fillable PDF, which allows officers to fill them out electronically. To ensure consistency and the ability to track cases, all filled-out detention forms that are not available in GCMS must be saved in GCMS, under the detainee's unique client identifier (UCI). Multiple forms may be simultaneously scanned and uploaded in the same attachment, as long as they are clearly identified:

- Navigate to "Clients" > "Documents" > "ID Supporting Documents" sub tab.
- Create a new record.
- Select the following options:
 - Type: CDN Immigration Doc
 - Sub Type: Client Submission
 - Document #: Form(s) BSF#
 - Country of Issue: Canada
 - Document Name: Name(s) of the form(s)
- Complete the "Issue Date".
- Add a new attachment in PDF format.

See the GCMS Wiki reference materials, [Arrest & Detain](#) and [Detained for Examination or MD Review](#) for more details. It is essential that the request for detention review and the detention summary screens in GCMS be completed as soon as possible by either the officer or the minister's delegate. If the detainee's detention facility or detention grounds change, it must be updated in GCMS.

NCMS

NCMS must be used for tracking all detentions originating at ports of entry and inland offices. All immigration holds must be saved in NCMS for detentions that last more than 15 minutes or when a short-term detention room or cell is used.

- If the detainee is later released prior to placement in or transfer to a detention facility, officers must select the NCMS option "Arrest and Release";
- If the detainee is placed in or transferred to a detention facility, officers must select the NCMS option "Arrest and Detained".

In addition, if a detainee is being transferred to a detention facility, an NRAD event must be completed under the "Immigration Hold" tab in NCMS. Officers must create a new NRAD event, enter the total score in the disposition section and select a vulnerable category (if applicable). If a person is detained less than a 15 minutes and no short-term detention rooms or cells were used before release, an immigration hold in NCMS is not necessary (e.g. an officer detains and releases a person after realizing it was not the right

person; an officer executes an arrest warrant and the person is immediately released). For procedures on entering detention data into NCMS, please see the [NCMS User Guide](#).

Most detention cases are forwarded to an inland enforcement office, which will create an immigration hold in NCMS. However, if a detention originates at a port of entry that does not have access to NCMS and the case will not be forwarded to an inland enforcement office (e.g. a person is detained and released at a port of entry before the first detention review), then an email request to create an immigration hold must be sent to the nearest inland enforcement office for the earliest possible data entry to NCMS.

For NCMS tracking of a minor on Alternative Arrangement, Housing or Detention, please see the [Standard Operating Procedures](#).

9.2. Detention notes

It is the officer's responsibility to clearly identify the initial factors that led to the decision to detain a person. An officer must be satisfied that given all the available information, the facts warrant the detention of an individual. Grounds and factors for detention, actions undertaken, information to be received and the facts justifying the officer's decision must be supported in the detention notes [BSF508] and uploaded in GCMS. When documenting their decision, officers should take the following steps:

- make a brief case history including actions taken to provide context for the reasoning;
- record the detention grounds (section 6.3);
- make a list of the applicable detention and release factors (sections 6.4 to 6.8);
- record the enforcement objective (e.g. to ensure the detainee appears at the immigration hearing or the removal from Canada, to establish the identity, to complete the examination or to establish the suspected inadmissibility);
- consider the best interests of a directly affected child or the best interests of the child (sections 6.10 and 6.11 and Annex B)
- show that ATDs have been considered and weighed against the detainee's identified risk. Officers must clearly document which ATDs have been considered and how they will not mitigate the associated risk (section 6.10 and [ENF 34, Alternatives to Detention](#)).

A detailed decision will help those involved, specifically community liaison officers, hearings officers and IRB members, to understand the reasoning that led to the decision to detain a person as well as the factors that contributed to maintaining the decision for an extended duration. A rigorous approach to the detention notes will support the action taken and the evolution of the file throughout the process (from the initial examination to the most recent detention review before the Immigration Division). In addition, appropriate and complete detention notes are critical to judicial reviews at the Federal Court, provincial courts and the IRB and any future file reviews.

When preparing the detention notes, the officer must show that their decision is supported by a rigorous assessment of the facts, including factors prescribed by IRPR. Although these prescribed factors must be considered during the officer's initial assessment of the situation, they are not restrictive; it is an analysis of the file in its entirety that will determine whether detention is necessary. If release on an ATD is deemed appropriate but it is not possible to effect release within a reasonable period of time (e.g. depositor not available, time needed to raise cash for deposit, release plan to be put into place), placement in a detention facility may be warranted until release can be effected. In such cases, the

proposed ATD should be clearly documented and release effected as soon as possible. Refer to ENF 34, Alternatives to Detention for further information.

9.3. Order for Detention

The Order for Detention form [BSF304] is used when an individual is detained under section A55 and needs to be placed in or transferred to a detention facility (i.e. IHCs, provincial correctional facilities and police stations). Officers must fill out the form, and the receiving detention facility staff must be given a copy. At the time of the transport, the detainee must receive in writing: the name, address and telephone number of the detention facility. If the detainee is detained in a provincial correctional facility, the DLO's or designated officer's contact information must be given. The form is not required if the detainee is released before any placement in or transfer to a detention facility has occurred.

9.4. Detainee medical needs

The intent of the Detainee Medical Needs (DMN) form [BSF674] is to ensure national consistency in gathering and sharing information regarding detainee medical needs with detention staff. The officer making the detention decision must complete the DMN form to ensure the safety and well-being of the detainee. This form is not required if the detainee is released before any placement in or transfer to a detention facility has occurred. An information session on the DMN form is available to officers in the following training and learning section: http://atlas/pb-dgp/res/toolkit-outils/detention/forms-formulaires/index_eng.asp.

Information in the health condition section is based on information stated by the detainee, and its accuracy cannot be validated before a consultation with a healthcare professional. The form is not a medical diagnosis, but a tool for detention staff to note any information pertaining to the detainee's self-identified needs before the detainee has their initial consultation with a healthcare professional. The form contains information on the detainee's health needs (such as mobility impairment) and life-threatening health conditions (such as heart disease, diabetes or allergies). In addition, the DMN form [BSF674] contains emergency contact information. If the detainee provided contacts in this section, the CBSA will contact the individuals listed in the event of a life-threatening health condition or the death of the detainee in CBSA custody or control during the detention period. If required, the detainee's personal information will be shared with the emergency contact. See section 10.2, In-custody death or life-threatening condition notification, for more details.

In addition, the DMN form [BSF674] contains specific questions on self-identified mental health conditions (such as depression or bipolar disorder) and indicators (such as a previous suicide attempt), which may indicate a predisposition to suicide and self-harm. Mental health questions are of a sensitive nature and should be asked in a non-judgemental way. Officers should use a friendly and accepting tone and allow the person time to speak. If a person being detained is believed to be suicidal or self-harmful, see section 10.1, Procedure: suicidal and self-harmful detainees.

The DMN form [BSF674] must be placed in the detainee's case file, and a copy of the form must be given to the following:

- the detainee or designated representative (by hand, by mail or electronically); and
- the detention facility personnel (the healthcare professional).

Paragraph 8(2)(a) of the Privacy Act (consistent use) allows the disclosure of information where the disclosure is made for the purpose for which the information was obtained. The individuals are being detained for IRPA purposes regardless if the detention facility is owned by the CBSA or not, and the disclosure is to ensure detainees' well-being and to assess their health needs.

Subsequent assessments

Until the person is released from detention, a subsequent assessment using the DMN form [BSF674] must be completed:

- at least once every 60 days after every assessment if detainees are detained in a provincial correctional facility; or
- sooner if the detainee self-identifies a change in their medical condition or if a possible change in their medical condition is observed by any custodial staff, regardless of the detention facility.

This is to ensure that the form is up to date in case the detainee needs to be quickly transferred to another detention facility or the CBSA needs to notify the emergency contact(s). For detainees in an IHC, the responsibility lies with the officers working at the IHC. For detainees in a detention facility elsewhere (such as a provincial correctional facility), the responsibility lies with a DLO or an officer designated to perform this function.

9.5. Placement: national risk assessment for detention

The placement in or transfer of a detainee to a detention facility cannot be used as a form of punishment, and the intent of the NRAD form [BSF754] is to ensure national consistency in a transparent and objective way. The officer making the detention decision must complete the NRAD form and must identify the detainee's risk and vulnerability factors to ensure the safety and well-being of the detainee, other detainees and staff. This form is not required if the detainee is released before any placement in or transfer to a detention facility has occurred. An information session on the NRAD form is available to officers in the following training and learning section: http://atlas/pb-dgp/res/toolkit-outils/detention/forms-formulaires/index_eng.asp.

Detention placement assessment

Officers must rely on facts and evidence for which there are reasonable grounds to believe that the NRAD risk and vulnerability factors exist. The NRAD risk and vulnerability factors are as follows:

- Risk factors #1 and #2 allocate points if there are reasonable grounds to suspect a detainee is inadmissible due to security grounds or organized criminality.
- Risk factor #3 allocates points based on the number of years that have passed since the last known offence or conviction, if any, that may cause inadmissibility for serious criminality or criminality. Offences where an individual was found not guilty or where charges have been withdrawn must not be counted in the assessment.
- Risk factors #4 and #5 allocated points based on the number of known acts, offences or convictions involving violent or severely violent crime. For the purpose of completing risk factors #4 and #5, an officer could consider the last outstanding charge if the person has been charged but the trial has not been concluded or the conviction date set. These questions apply equally to

persons who have committed violent acts associated with inadmissibility pursuant to paragraph A35(1)(a). Offences where an individual was found not guilty or where charges have been withdrawn must not be counted in the assessment. The following table offers a general overview of common non-violent crimes, violent crimes and severely violent crimes:

Crime type	Common crime examples (with criminal code references)
Non-violent crime	<ul style="list-style-type: none"> • Possession of child pornography (subsection 163.1(4)) • Operation while impaired (section 320.14) • Theft (section 322) • Breaking and entering with intent, committing offence or breaking out (section 348) • Fraud (section 380) • Possession of a controlled substance (section 4 of the Controlled Drugs and Substances Act) • Trafficking in substance (section 5 of the Controlled Drugs and Substances Act)
Threats or violent crime	<ul style="list-style-type: none"> • Uttering threats (section 264.1) • Assault (section 265) • Sexual assault (section 271) • Includes all severely violent crimes (see below)
Severely violent crime	<ul style="list-style-type: none"> • Assault with a weapon or causing bodily harm (section 267) • Sexual assault with a weapon, threats to a third party or causing bodily harm (section 272) • Aggravated sexual assault (section 273) • Murder (section 229) • Manslaughter (section 234) • Robbery (section 343) • Torture (section 269.1)

- Risk factor #6 allocates points if in the last two years, a detainee was involved in a serious incident during the arrest or was involved in a major breach of the detention facility rules of an IHC, a provincial or a federal correctional facility or a port of entry or inland office cell. It includes major breaches that have occurred in detention facilities outside Canada. The CBSA National Detention Standards – Disciplinary System define a major breach as the following: a detainee commits, attempts or incites acts that are violent, harmful to others, or cause an unsafe environment in the detention facility (for example, resisting arrest, using physical violence aimed at another person, being in possession of any item that may be considered as an offensive weapon, or throwing objects at another person).
- Risk factor #7 allocates points if a detainee previously escaped or attempted escape from legal custody (e.g. from a detention facility or from the custody of an officer).
- Risk factor #8 allocates points if a detainee remains the subject of an unexecuted criminal warrant for arrest. In the context of completing the NRAD, warrants issued under immigration or traffic laws are not considered as criminal warrants and, as a consequence, do not have any repercussions for this risk factor.

- Vulnerability factor #9 reduces points if a detainee is a vulnerable person. Only one vulnerable category can be selected, even if the detainee is part of more than one vulnerable category. For information on vulnerable persons, see section 6.13.

Decision

Any additional information supporting the officer's decision must be recorded in the narrative section of the NRAD (such as details of key risk factors, the detainee's comments, incidents and changes in the facility type for detention). Based on the total sum of points attributed to the risk and vulnerability factors, a detainee should be detained in a detention facility according to the total score, as follows:

- 0 to 4 points = IHC (where available)
- 5 to 9 points = IHC or provincial correctional facility (default to IHC where risk can be mitigated)
- 10 points or more = provincial correctional facility

Based on the detainee's NRAD score, ports of entry and inland offices near an IHC can refer detainees for placement in an IHC, if transport can be easily facilitated the same day, or in a provincial correctional facility. Ports of entry and inland enforcement offices not located in close proximity to an IHC can solely refer detainees for placement in a provincial correctional facility. However, inland enforcement offices may later refer detainees for transfer to an IHC based on the detainee's total NRAD score (see section 11). IHC managers are the ultimate decision makers to determine if a detainee's risk factors and behaviour can be appropriately managed within the IHC.

To ensure procedural fairness of each assessment or subsequent assessment, the detainee must be informed of the risk and vulnerability factors taken into consideration, and officers must ask if there is anything the detainee would like to add that may impact their decision before the chosen facility type has been finalized. It is an opportunity for the detainee to bring new elements to the knowledge of the officer, it is not an obligation for the detainee to respond. The officer is not bound by the information given by the detainee; however, the information must be taken into consideration in compliance with procedural fairness. If a detainee refuses to speak with the officer, the officer should rely on other information sources to complete the assessment (e.g. a file review, security guards' observations, incident reports, a designated representative). If the detainee was not afforded an opportunity, the officer must explain why on the NRAD.

Details of the key risk factors, criminal convictions, the detainee's behaviour, information given by the detainee (or the refusal thereof) and any other elements supporting the officer's decision must be recorded in the decision section. This section must be completed to support the decision being made, and it is not sufficient to state "refer to file". The decision must be communicated to the detainee, the NRAD must be placed in the detainee's case file and a copy of the form must be given to the following:

- the detainee or designated representative (by hand, by mail or electronically); and
- the detention facility personnel.

Paragraph 8(2)(a) of the Privacy Act (consistent use) allows the disclosure of information where the disclosure is made for the purpose for which the information was obtained. The individuals are being detained for IRPA purposes regardless if the detention facility is owned by the CBSA or not, and the disclosure is to ensure the safety of the detainee, other detainees and staff where the detainee is being held.

For the initial NRAD assessment, the detention placement decision shall be reviewed prior to the placement of a detainee in a detention facility by the authorities listed below (see section 9.6, Management review of detention cases, for more details).

Subsequent assessments

Until the person is released from detention, a subsequent assessment using the NRAD form [BSF754] must be completed:

- at least once every 60 days after every assessment if detainees are detained in a provincial correctional facility; or
- sooner if new information or a change in circumstances has a repercussion on the detainee's total score or the detention placement, regardless of the detention facility.

Subsequent assessments must be supported by information to corroborate the status quo or the change in the facility type for detention. For detainees held in an IHC, the responsibility lies with the officers working at the IHC. For detainees held in a detention facility elsewhere (such as a provincial correctional facility), the responsibility lies with a DLO or an officer designated to perform this function. Changes in the person's risk and vulnerability factors and the ability to mitigate that risk within an IHC should be considered at each assessment.

Requests for an early subsequent assessment may be received from individuals (e.g. counsels and detainees) from time to time. These requests must be responded to with notes to file, and any new circumstance must be taken into consideration. When a request is made, if the officer responsible for filling out the subsequent assessment is of the opinion that no circumstances have changed (i.e. no impact on the detainee's total NRAD score), then no early subsequent assessment is needed. However, a formal response must be sent to the requestor explaining the subsequent NRAD assessment process and the decision.

Detainees medically unfit for placement or transfer

If a healthcare professional recommends against moving a detainee because of a medical condition, the information must be communicated to an IHC manager. In cases of a disagreement, the IHC manager is the ultimate decision maker able to authorize or deny a detainee's placement or transfer.

The decision to authorize or deny the placement or transfer should be made in consultation with IHC healthcare professionals and take into consideration the safety and well-being of the detainee, other detainees and staff. Due to information privacy laws, healthcare professionals may not be authorized to disclose details or personal information to CBSA staff. However, they can make recommendations on how to facilitate a detainee's placement or transfer or give advice regarding when a detainee should be fit for transfer. If an IHC manager concurs that a detainee is not medically fit for transfer, it should be documented on the NRAD form [BSF754] in the additional information section. Regular follow-up should be done with the healthcare professionals in case the detainee's medical condition improves.

9.6. Management review of detention cases

Despite it not being a legislative requirement, the CBSA has established an administrative process to ensure management oversight and visibility of all continued detention cases. No management permission

is needed for officers to initiate a detention. In addition, no management review is needed if the arresting officer determines release is appropriate.

The term “continued detention” refers to the decision, following an arrest, to maintain detention and have the individual placed in a detention facility. All continued detention cases shall be reviewed by one of the following members of management:

- a superintendent (FB05) or higher regional authority for all port of entry cases; or
- an inland supervisor or manager (FB05/FB06) or higher regional authority for all inland cases.

Should one of the above members of management not be available onsite when continued detention is being considered, officers must call an authorized duty manager or approved management at another location or region if necessary. The management personnel conducting the review of the detention must have experience in the application of the IRPA and to be aware of detention and release procedures. In addition, they must have completed relevant training (e.g. information session on the NRAD form) and have access to GCMS.

Part 1 – Legal authority and detention placement

This first part can be done in person or remotely (e.g. by phone or email after regular office hours), and it must be done prior to the placement of a detainee. Management reviewing the detention case must consider any new information and be able to answer these two questions:

- Does the legal authority exist in the IRPA for this detention?
- Is the initial detention placement decision appropriate?

The management review should focus on the legal authority of the detention, and when clarification is necessary, they should ask questions to better understand the relevant facts of the case. They may give advice to the officer regarding the case, but they should avoid challenging the officer’s detention decision if the legal authority to detain exists. This way, the officer’s detention decision is not fettered by a higher level of authority, and the decision maker can clearly be identified. Here are some facts that must be clarified:

- What is the detainee’s immigration status (Canadian citizen, registered Indian, permanent resident, protected person or foreign national)?
- Where the detention did occur (in Canada or on entry into Canada)?
- What are the applicable detention grounds?

In cases where the detention decision is found to be lacking legislative authority under the IRPA, the reviewing manager must release the detainee. See section 12, Procedure: release by officer before the first detention review, for more information.

The management review should also look at the NRAD risk and vulnerability factors, the given details by the detainee, the total score and the detainee placement decision. Accurate NRAD information is relevant even for ports of entry and inland enforcement offices not located in close proximity to an IHC, as the detainee may later be transferred to an IHC based on their total NRAD score. Once the legal authority of the detention and placement decision have been reviewed, the name of the reviewing manager must be added to the NRAD form by the officer. In the case of a disagreement regarding the total NRAD score or detention placement, the reviewing manager is responsible for performing the subsequent NRAD

assessment by filling out an NRAD form [BSF754]. This way, the new decision maker can clearly be identified.

Part 2 – Quality review of detention cases

This second part must be done in person prior to the first IRB detention review and may be done by another member of management who meets the above requirements. Reviewing management must confirm that the detention forms are properly completed and placed in the person's file and the required forms are uploaded in GCMS. They must confirm that detentions factors are clearly stated in the detention notes [BSF508], aligned with the selected detention grounds and supported by relevant facts. They must confirm how the best interest of the child and ATDs have been considered and if they would be deemed appropriate at a later time. Finally, reviewing management must confirm that data entry in NCMS is done or arrangements were made for its completion. See Annex A – Detention Checklist for more information.

Once the detention paper file is completed and has been reviewed by management, it may leave the originating port of entry or inland enforcement office.

9.7. Detention review after 48 hours and informing the IRB

If the detention continues, the Immigration Division of the IRB will review the reasons for continued detention within 48 hours following the start of the detention or as soon as possible thereafter. As required under subsection A55(4), the officer shall without delay give notice to the Immigration Division by sending the Request for Admissibility Hearing/Detention Review Pursuant to the Immigration Division Rules form [BSF524] to the registry by facsimile. The officer will retain on the file evidence that the Immigration Division has been informed. A copy of the facsimile receipt is evidence that the transmission has been completed. For more information on detention review pursuant to section A57, as well as the rules applicable to the Immigration Division, see ENF 3, Admissibility, Hearings and Detention Review Proceedings. See section 9.1, Data entry, for more information.

Should an individual be subject to a 48-hour detention review and detention be maintained by the IRB member, the detainee must be brought before the Immigration Division at least once in the seven-day period following the first review, then at least every 30 days following the preceding review. When the Immigration Division has jurisdiction, that is, after the first detention review is held, hearings officers may make an application for an early detention review if continued detention is no longer justified.

The processes for a designated foreign national and an individual named in a security certificate are different. For more information on detention review pursuant to the Immigration Division Rules, see ENF 3, Admissibility, Hearings and Detention Review Proceedings.

10. Care of detainees while in short-term detention rooms or cells

A short-term detention room or cell is an area that the CBSA has designated as secure at a POE office or an inland enforcement office pending the detainee's placement in or transfer to another location. A short-

term detention room or cell is not considered as a detention facility because it was not designed for long detentions and since few services are available to detainees. A detainee should not spend more than 24 consecutive hours in a short-term detention room or cell before their release or transfer to a more suitable detention facility.

Officers or contracted security guards must conduct a visual check or video monitoring of detainees while in short-term detention rooms or cells at least once every 15 minutes using the Detention Cell Log and Instructions [BSF481]. Officers should consult and follow the Enforcement Manual, Part 6, Chapter 2, Care and Control of Persons in Custody.

10.1. Procedure: suicidal and self-harmful detainees

The IRPA does not authorize the detention of an individual for their own safety or protection, except with special considerations for minor children. Persons who are believed to be suicidal or prone to self-harm are considered vulnerable persons; see section 6.13. If an officer has reason to believe an individual is suicidal or prone to self-harm, the first intervention is for the officer to show concern and speak with the individual. For more information, officers should complete the online training course entitled "Prevention of Suicide and Self-Harm among Detainees" (H2047-P) available through the CAS portal.

Mental health questions are of a sensitive nature and should be asked in a non-judgemental way. Officers should use a friendly and accepting tone and allow the person time to speak. Contrary to common belief, asking someone if they are having thoughts of killing themselves will not make them suicidal. If an officer is concerned about a risk of suicide, the officer must ask questions to the detainee. The following examples can be used to determine if the detainee has thoughts of suicide:

- The situation you describe sounds serious. I want to know if you have considered committing suicide.
- I can see you are feeling down or panicky. Sometimes when people feel like this, they have thoughts of killing themselves. Are you thinking of suicide?

If a detainee says that they are thinking about ending their life, the officer must acquire additional information from the detainee. The following examples can be used to investigate the detainee's plan for suicide:

- I want to know if you have a plan to commit suicide.
- How do you plan to take your life?
- Where do you plan to do this?
- Do you have a means to do this?

Those at the highest risk for suicide in the near future have a specific suicide plan, the means to carry out the plan, a time set for doing it and an intention to do it. If a detainee has a plan and intends to end their life soon, do not leave them alone. Officers should call an IHC healthcare professional (if available) or local crisis support centre right away and put them in contact with the detainee.

At a port of entry or an inland enforcement office, if a detainee is believed to be suicidal or self-harmful, a constant visual check or video monitoring by an officer or a contracted security guard is required using

the Detention Cell Log and Instructions [BSF481]. The detainee is to be kept under continuous monitoring until:

- it is discontinued by the immediate superintendent/manager on duty;
- the detainee is released from custody; or
- the detainee is transferred to an IHC or a provincial correctional facility.

Once the detainee has been transferred to an IHC or a provincial correctional facility, the healthcare professional will make an assessment to determine if the monitoring should continue or not.

10.2. In-custody death or life-threatening condition notification

In the case of an in-custody death, where there is an investigative body (e.g. local police or RCMP) involved, it will notify the emergency contact. In cases where an investigative body is not undertaking the notification, it will be done by the regional director general. See Operational Bulletin PRG-2014-51: Protocol Regarding the Death of an Individual Detained Pursuant to the IRPA, the CBSA guidelines for responding to a serious incident and death in CBSA custody or control, and the Public Communications Protocol – In-Custody Death or Serious Injury for more details.

In the event of a life-threatening health condition to the detainee in CBSA custody or control during the detention period, if requested by the detainee on the DMN form [BSF674], the duty manager has the responsibility to contact the emergency contact. Phone calls to emergency contact(s) are only required in instances where we have reasons to believe the condition is life-threatening or death is imminent.

11. Placement and transfer of detainees from a non-IHC region to an IHC

This section is intended for non-IHC regions (i.e. Atlantic, Northern Ontario, Southern Ontario and Prairies). It clarifies their options regarding placement in and transfer of detainees to an IHC (i.e. Quebec, Greater Toronto Area and Pacific). Based on the detainee's NRAD score, ports of entry and inland offices near an IHC may refer detainees for placement in an IHC, if transport can be easily facilitated the same day, or in a provincial correctional facility. Ports of entry and inland enforcement offices not located in close proximity to an IHC can solely refer detainees for placement in a provincial correctional facility. However, inland enforcement offices may later refer detainees for transfer to an IHC based on the detainee's total NRAD score. The guiding principles for achieving national consistency in the placement and transfer of detainees from a non-IHC region to an IHC region are as follows:

- IHCs play a key role in the effective management of the CBSA national detention program and are available to all regions.
- Based on the NRAD assessment, regional IHCs must accommodate the maximum number of detainees possible to reduce reliance on provincial correctional facilities, regardless of where a detention is originating from.
- Detainee placement and transfer requests from non-IHC regions must be accepted in the same way as if requests were originating from within the IHC region.
- Where detainee transfer to an IHC region is requested, all efforts must be made to facilitate detainee placement in and transfer to an IHC, and in the case of a disagreement, the IHC

manager is the ultimate decision maker.

Regional IHCs and the non-IHC regions they serve

IHC	Placement in an IHC for non-IHC regions	Transfer to an IHC for non-IHC regions
	The following ports of entry and inland offices are near enough to an IHC to expect a same-day detainee transport:	The following inland offices are further away from an IHC but may request a detainee transfer to an IHC:
Laval IHC	<ul style="list-style-type: none"> Northern Ontario Region: Cornwall, Prescott, Lansdowne and Macdonald–Cartier International Airport ports of entry. Northern Ontario Region: Cornwall, Ottawa and Gatineau inland enforcement offices. 	<ul style="list-style-type: none"> Atlantic region: all inland enforcement offices.
Toronto IHC	<ul style="list-style-type: none"> Southern Ontario Region: Fort Erie, Niagara Falls Rainbow Bridge, Queenston–Lewiston Bridge and London International Airport ports of entry. Southern Ontario Region: London and Niagara inland enforcement offices. 	<ul style="list-style-type: none"> Northern Ontario Region: Kingston and Thunder Bay inland enforcement offices. Southern Ontario Region: Windsor and Sarnia inland enforcement offices.
Surrey IHC	Not applicable.	Prairies Region: All inland enforcement offices.

Transfers to an IHC in a region other than the identified serving IHC may be considered on a case-by-case basis but should not be common practice.

11.1. When a detainee's placement or transfer should be considered

Detainees with a total NRAD score of 0 to 4 or 5 to 9 points (if risk can be mitigated) may be placed in or transferred to an IHC region. In non-IHC regions, prior to making the placement or requesting the transfer of a detainee to an IHC, officers must take into consideration the following factors:

- the expected length of detention;
- the imminence of a release on an alternative to detention;
- the case complexity;
- the detainee's opinion;
- the detainee's family location and relationships;
- the detainee's legal or designated representative's opinion; and
- other personal ties to a specific region.

While efforts should be made, non-IHC regions have flexibility in determining if and when a detainee should be placed in or transferred to an IHC region. It is expected that some cases can be deemed not appropriate for placement in or transfer to an IHC region based on one or more of the factors listed above. These factors and any additional information supporting the officer's decision must be recorded in the NRAD narrative section.

11.2. Requirements

Detainee placement requests from non-IHC regions must be accepted in the same way as requests originating from within the IHC region. Here are examples where it would be appropriate to place a detainee in an IHC:

- In a non-IHC region, an inadmissible foreign national wishes to withdraw his application at a port of entry (airport) that is near an IHC. The foreign national is unable to leave the port of entry because the last return flight has already left and no other return flight is available for the next two days. The officer feels that the foreign national is unlikely to appear for his flight. The officer has considered all other ATDs; however, none of them are deemed appropriate to mitigate the risk. The officer decides to detain the foreign national to complete the examination until the next return flight is available. The detainee's total NRAD score is 6 and, after review by a superintendent, the detainee is placed in an IHC, as the risk can be mitigated in the IHC.
- In a non-IHC region, an inadmissible foreign national is detained at an inland office that is near an IHC. The officer believes that the foreign national is unlikely to appear for removal. The officer has considered ATDs; however, none of them can mitigate the risk. The detainee's total NRAD score is 3 and, after review by an inland enforcement supervisor, the detainee is placed in an IHC.

Requirements for the transfer to an IHC

When a detainee is held in a provincial correctional facility, consideration for transfer to an IHC should be given by the DLO or an officer designated to perform this function.

Inland enforcement offices not located in close proximity to an IHC may refer detainees for transfer to an IHC based on the detainee's total NRAD score. Requests for transfer to an IHC should not be undertaken before a 48-hour detention review. If the detention is maintained, transfers may be requested after the 48-hour detention review for detainees transported by land or after the seven-day detention review for detainees transported by air. In order to ensure management oversight and visibility of all detention cases, all decisions to transfer a detainee to an IHC shall be reviewed by an IHC manager prior to the transfer. Where detainee transfer to an IHC region is requested, all efforts must be made to facilitate detainee transfer, and in cases of disagreement, the IHC manager is the ultimate decision maker. Here are examples where it would be appropriate to transfer a detainee to an IHC:

- In a non-IHC region, the detention of an inadmissible foreign national has been maintained following the seven-day detention review because the detainee is unlikely appear for removal. The DLO does not expect an early detention review prior to the 30-day review. In consultation with the detainee, the DLO recommends a transfer to an IHC. The detainee's total NRAD score is 3 and, after review by an IHC manager, the detainee will be transferred to the IHC once the transfer arrangements have been confirmed.
- In a non-IHC region, an inadmissible permanent resident's detention has been maintained following the 30-day detention review on the grounds of a danger to the public. The officer designated to fill out the subsequent NRAD assessment does not expect that the detainee will be released at the next detention review, and they continue to await a danger opinion from IRCC. The officer also noted that the detainee would like to be transferred to an IHC and has relatives in the IHC region. The detainee's total NRAD score is 9. After discussion and review by an IHC manager, it is determined that the detainee's risk factors and behaviour can be appropriately

managed within the IHC. The detainee will be transferred to an IHC once transfer arrangements have been confirmed.

In preparation for the detainee's transfer and to ensure the safety and well-being of the detainee, other detainees and staff, the requesting DLO or the officer designated to perform this function has the responsibility to obtain the following from the detention facility where the detainee is currently being detained prior to the transfer:

- information regarding the detainee's behaviour, incidents involving the detainee and reported breaches of security;
- information regarding physical and mental health needs and current treatment;
- the contact information of the healthcare professional at the provincial correctional facility; and
- comments and recommendations from the healthcare professional to ensure the detainee is suitable for transfer.

11.3. Placement and transfer refusal

In exceptional circumstances, an IHC manager may request that the detainee's placement or transfer be postponed due to circumstances outside their control such as a shortage of availability in the requested IHC section (male, female and family), the IHC having nearly reached maximum capacity (85% and above), or a significant event in progress (e.g. major disturbance) that has temporarily reduced the IHC's capacity. In addition, an IHC manager may refuse a detainee's placement or transfer if the perceived risk posed by the detainee cannot be mitigated in the IHC. Transfers to an alternate IHC may be considered on a case-by-case basis but should not be common practice.

Should an IHC manager be unable or unwilling to accept a detainee from a non-IHC region, the rationale and potential future transfer dates must be communicated by the IHC to the requesting region and the National Headquarters – Inland Enforcement Operations Unit.

11.4. Detainee case management

Detainee case management following placement in an IHC

Due to proximity, the non-IHC region should continue to manage the detainee's case file (e.g. investigation, detention reviews and removal, updates to GCMS and NCMS) and leverage remote working tools as required (e.g. teleconference and videoconference) even after the detainee has been placed in an IHC. The IHC region will manage the detention responsibilities, such as detention placement; discipline; subsequent NRAD and Detainee Medical Needs assessments; communication and meetings with community liaison officers, NGOs and legal representatives; and other interviews as required. Where the IHC region does not have information to respond to detainee requests, they should liaise with the file holder to obtain the required information.

If the non-IHC region is unable to manage the detainee's case file (e.g. the hearings officers in the non-IHC region are not available), then the whole file must follow the detainee and the IHC region must be notified. The referring superintendent, inland supervisor or assistant director must notify the receiving IHC region with the following information: the UCI, a case summary and the next detention review date. The notification must be sent to the following email addresses:

- **Laval IHC:** [QUE CPI Agents DL@cbsa-asfc.gc.ca](mailto:QUE_CPI_Agents_DL@cbsa-asfc.gc.ca),
[QUE Mtl ASFC Aud Det Immigration Adjoints DL@cbsa-asfc.gc.ca](mailto:QUE_Mtl_ASFC_Aud_Det_Immigration_Adjoints_DL@cbsa-asfc.gc.ca) and ASFC.O.I-R.DA/I-R.AD.O.CBSA@cbsa-asfc.gc.ca
- **Toronto IHC:** [CBSA-ASFC GTAR EIOD-Dist Holding Centre@cbsa-asfc.gc.ca](mailto:CBSA-ASFC_GTAR_EIOD-Dist_Holding_Centre@cbsa-asfc.gc.ca)
- **Surrey IHC:** [PAC-Dist CBSA EID Detention Operations@cra-arc.gc.ca](mailto:PAC-Dist_CBSA_EID_Detention_Operations@cra-arc.gc.ca)

Detainee case management following transfer to an IHC

Due to distance, a non-IHC region cannot continue to manage the detainee's case file once it has been transferred to an IHC. The whole file must be transferred with the detainee, and the IHC region must be notified. The superintendent, inland supervisor or assistant director must make a formal request to the IHC region at least two working days before the transfer (see above for notification emails) to allow enough time to respond and make arrangements.

11.5. Notification

Legal counsel

In the event of a transfer to another region or facility, the detainee has the responsibility to inform their legal counsel and family members of the transfer and new location, if so desired. The CBSA must inform the detainee of their responsibilities and afford them the opportunity to contact their legal counsel prior to the anticipated transfer. If a detainee requires legal aid assistance, they should be referred to the provincial legal aid services in the region where they are currently detained.

Immigration and Refugee Board of Canada

Detainee placement in and transfer to a serving IHC will not have significant repercussions on the Immigration and Refugee Board (IRB) process because it aligns for the most part with the current IRB regional structure.

The transfer of a detainee to an IHC outside the scope of the IRB regional office that originally heard the matter requires a notification to the board from the receiving region as soon as possible for the scheduling of subsequent detention reviews and any other upcoming IRB hearings (e.g. a detainee transferred from the Prairies Region to the Toronto IHC). Any such request to the IRB must be processed in accordance with these guidelines (see [ENF 3, Admissibility, Hearings and Detention Review Proceedings](#) for more details).

11.6. Transport

The transport of a detainee for placement in or transfer to an IHC shall be undertaken in line with national detention standards for transport and the Enforcement Manual, Part 6, Chapter 8, [Vehicular Transport of Persons under Arrest or Detention](#).

Transport by contracted security guards or CBSA officers

To the extent possible, contracted security guards should be used for detainee transport to and from facility locations. Where contracted security guards are not in place (i.e. regions without contracts), requests to use contracted security guards from another region may be supported with prior approval

from the IHC manager or detention program manager (e.g. a detainee from Northern Ontario region is being transported to the Toronto IHC and contracted security guards from Greater Toronto Area region are requested for the transport). Requests for transfer should be timely, and all parties should be informed as soon as practicable to enable efficient planning and logistics and minimize the use of overtime and extra duty pay.

Contracted security guard contracts are in place in the following regions: Greater Toronto Area Region, Quebec Region, Prairies Region, and Pacific Region. Where a transport is inter-provincial, the security contract must support the use of contracted security guards for transport between provinces. Discussions with the IHC or detention program manager responsible for the administration of the security guard contract and the contracted security supervisor or operational manager may be required to ensure that licensing in each province is in place.

Transport by land

All security guard statements of work contain a clause that includes travel within Canada, and their travel is not limited to one region. Security guards can be from the originating region, the receiving region or a combination of both as appropriate and approved by the IHC or detention program managers of both regions.

Transport by air

Where a detainee is arrested and detained and requires transfer to an admitting facility within the same region, transport by air may be a viable option. Currently the only region able to support the use of contracted security guards for transport of detainees by air is the Pacific Region. For all other regions not served by the Surrey IHC, where transport by airplane is needed, transport of detainees will be done by CBSA officers.

The assignment of CBSA officers to transport detainees (e.g. if security guards are unable to mitigate the risk posed by a detainee) must be authorized by a delegated manager.

Transport upon release

It is against CBSA policy to use a federal government vehicle to transport non-detained passengers due to liability concerns. This applies to all provinces regardless if the province insures the vehicle. The Enforcement Manual, Part 6, Chapter 8, Vehicular Transport of Persons under Arrest or Detention, says, "It is the policy of the CBSA to transport persons under arrest or detention when required in support of the enforcement and/or administration of CBSA legislation." CBSA officers do not have the legislated authority to transport a person when the proceeding is not related to CBSA business. CBSA officers cannot use their powers under the IRPA or IRPR to achieve goals that are not in relation with the IRPA or IRPR.

Upon release, an individual is free to remain in the IHC region or to return to their home community in a non-IHC region as long it does not contravene an imposed condition. Although it is not required by legislation, the IHC region will pay the cost of the individual returning home in order to ensure the individual safely reaches their destination. Nevertheless, the individual may refuse CBSA assistance and travel by their own means. After approval by an IHC manager, the individual, including their personal

effects, will be provided prearranged transport (or money) to the degree possible and an itinerary to return to the final destination of:

- their place of original detention;
- their home community in Canada; or
- any other destination no further in distance than the place of original detention, if the individual chooses.

The most economical means (e.g. public transit, bus, train or plane) should be used, and arrangements should be made to avoid the need for overnight accommodation. However, when the individual's intention is to remain in the IHC region, there is no need to do so.

12. Procedure: release by officer before the first detention review

In the event that the grounds for detention cease to exist before the Immigration Division has conducted the first detention review (48-hour review), the officer or the reviewing manager may release the person being detained under subsection A56(1). Detention may no longer be justified because an ATD that sufficiently mitigates the risk posed has been identified. The following table contains the main tasks that must be completed to release an individual before the first detention review.

Task	Responsibility and References	Uploaded to GCMS	Paper copies			
			Case file	Detainee or designated representative	Detention Facility	IRB
If the detainee has already been placed in or transferred to a detention facility, fill out the Authority to Release from Detention form [BSF566]	Officer or management	X	X		X	
If any conditions apply, fill out the Acknowledgement of Conditions (the Immigration and Refugee Protection Act) form [IMM 1262E]	Officer or management See prescribed conditions below. See ENF 8, Deposits and Guarantees See ENF 34, Alternatives to Detention	X	X	X		
Data entry in GCMS and NCMS or make arrangements with the nearest inland enforcement office for the earliest possible data entry in NCMS.	Officer or manager See section 9.1, Data entry					
Use the original Request for Admissibility Hearing/Detention Review Pursuant to the Immigration Division Rules form [BSF524], write "RELEASED" on it and notify the IRB – Immigration Division	Officer or manager	X	X			X

Section A56 authorizes the officer to impose any conditions that they consider necessary. These conditions are imposed using the Acknowledgement of Conditions (the Immigration and Refugee Protection Act) form [IMM 1262E]. Procedures for deposits and guarantees are found in ENF 8, Deposits and Guarantees, and procedures for ATDs are found in ENF 34, Alternatives to Detention.

Prescribed conditions

Subsection A56(3) states that if an officer orders the release of a permanent resident or foreign national who is the subject of either a report on inadmissibility on grounds of security that is referred to the Immigration Division, or a removal order for inadmissibility on grounds of security, the officer must also impose the prescribed conditions on the person. The conditions that must be imposed on a foreign national or permanent resident are the following (section R250.1):

- (a) to inform the CBSA in writing of their address and, in advance, of any change in that address;
- (b) to inform the CBSA in writing of their employer's name and the address of their place of employment and, in advance, of any change in that information;
- (c) unless they are otherwise required to report to the CBSA because of a condition imposed under subsection A44(3), A56(1), A58(3) or A58.1(3) or paragraph A82(5)(b), to report once each month to the CBSA;
- (d) to present themselves at the time and place that an officer, the Immigration Division, the Minister or the Federal Court requires them to appear to comply with any obligation imposed on them under the IRPA;
- (e) to produce to the CBSA without delay the original of any passport and travel and identity documents that they hold, or that they obtain, in order to permit the CBSA to make copies of those documents;
- (f) if a removal order made against them comes into force, to surrender to the CBSA without delay any passport and travel document that they hold;
- (g) if a removal order made against them comes into force and they do not hold a document that is required to remove them from Canada, to take without delay any action that is necessary to ensure that the document is provided to the CBSA, such as by producing an application or producing evidence verifying their identity;
- (h) to not commit an offence under an Act of Parliament or an offence that, if committed in Canada, would constitute an offence under an Act of Parliament;
- (i) if they are charged with an offence under an Act of Parliament or an offence that, if committed in Canada, would constitute an offence under an Act of Parliament, to inform the CBSA of that charge in writing and without delay;
- (j) if they are convicted of an offence under an Act of Parliament or an offence that, if committed in Canada, would constitute an offence under an Act of Parliament, to inform the CBSA of that conviction in writing and without delay; and
- (k) if they intend to leave Canada, to inform the CBSA in writing of the date on which they intend to leave Canada.

12.1. Release: mandatory arrest and detention of a designated foreign national

Under subsection A56(2), officers cannot release a designated foreign national who is detained and who was 16 years of age or older on the day of the arrival that is the subject of the designation in question until:

- (a) a final determination is made to allow their claim for refugee protection or application for protection;
- (b) they are released as a result of the Immigration Division ordering their release under section A58; or
- (c) they are released as a result of the Minister ordering their release under section A58.1.

For more information on detention review process, see [ENF 3, Admissibility, Hearings and Detention Review Proceedings](#).

Annex A – Detention Checklist

Client Name	UCI					Date
Officer responsibility						Management responsibility
Forms/Tasks	Uploaded to GCMS	Case file	Detainee or designated representative	Detention Facility	IRB	Management review (Part 2) – quality review of the detention case
BSF561 – Notice of Arrest N/A for subsection A55(3)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>
BSF776 – Notice of Rights Conferred by the Vienna Convention	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>
IMM1265B – Interpreter Declaration		<input type="checkbox"/>				<input type="checkbox"/>
Photograph and fingerprint		<input type="checkbox"/>				<input type="checkbox"/>
Query the National Crime Information Center and the Canadian Police Information Centre		<input type="checkbox"/>				<input type="checkbox"/>
BSF5012 – Detention brochure with facility info (name, address and telephone number), any other regional detention facility information. The DLO's or designated officer's contact information for provincial correctional facility only			<input type="checkbox"/>			
BSF481 – Detention Cell Log, and conduct a visual check or video monitoring of detainees while in short-term detention rooms or cells at least once every 15 minutes.	<input type="checkbox"/>	<input type="checkbox"/>				<input type="checkbox"/>
BSF508 – Detention Notes	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
BSF510 – Minister's Opinion Regarding the Foreign National's Identity – only where identity has not been established	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>
BSF674 – Detainee Medical Needs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
BSF754 – National Risk Assessment for Detention	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Management review (part 1) of the legal authority and detention placement. Add the name of the reviewing manager to the NRAD form.						
BSF304 – Order for Detention	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>
Notify the contracted security guards of all transport requests (if needed)						
BSF524 – Request for Admissibility Hearing/Detention Review	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>
Notify the Canadian Red Cross for unaccompanied minors, persons unable to appreciate IRB proceedings, emerging issues		<input type="checkbox"/>				<input type="checkbox"/>
Data entry in GCMS and NCMS or arrangements have been made						<input type="checkbox"/>
Officer Name	Reviewing Management Name					

Place on client's physical file once completed

Annex B – National Directive for the Detention or Housing of Minors

1. INTRODUCTION

The Canada Border Services Agency (CBSA) is responsible for the administration and enforcement of the Immigration and Refugee Protection Act (IRPA), including the arrest and detention of permanent residents and foreign nationals in Canada. When exercising their authority to arrest and detain under IRPA and the Immigration and Refugee Protection Regulations (IRPR), CBSA officers are guided by jurisprudence as well as internal policies, directives and guidelines. Canada's immigration detention program is based on the principle that detention shall be used only as a last resort, in extremely limited circumstances and only after appropriate alternatives to detention (ATDs) are considered and determined to be unsuitable or unavailable.

This Directive is fully aligned with the Ministerial Direction issued by the Minister of Public Safety and Emergency Preparedness.

2. PREAMBLE

Canada's international obligations and domestic legislative and policy frameworks are the broad underpinnings of this Directive. Section A60 affirms the principle that the detention of a minor must be a measure of last resort, taking into account other applicable grounds and criteria, including the best interests of the child (BIOC). The United Nations *Convention on the Rights of the Child* (CRC), to which Canada is a party, states that the BIOC shall be a primary consideration in all state actions concerning children. In recognizing the vulnerability of children and research on the detrimental effects of detention and family separation on children, the CBSA developed the *National Directive for the Detention or Housing of Minors* for operational use, to achieve better and consistent outcomes for minors affected by Canada's immigration detention system.

3. DEFINITIONS

Alternative Arrangement for Minors (AAM): the transfer of custody of an accompanied or unaccompanied **non-detained** minor to a family member or a trusted friend/community member (who is not under CBSA custody), child protection services or a community-based organization. AAM is a new process in the CBSA's National Case Management System (NCMS).

Alternatives to Detention (ATDs): a release program that ensures people (adult or minor) are not detained under the IRPA at an Immigration Holding Centre (IHC) or provincial or any other facility for reasons relating to their immigration status in Canada. ATDs include allowing individuals to live in non-custodial, community-based settings while their immigration status is being resolved, which may include in-person reporting, deposits and guarantees, community case management and supervision and electronic supervision tools (e.g. voice reporting with location services).

Best Interests of the Child (BIOC): an international principle to ensure children enjoy the full and effective benefit of all their rights recognized in Canadian law and the CRC. It is also a rule of procedure that includes an assessment of the possible impact (both positive and negative) of a decision on the child or children concerned.

Community-based organizations (CBOs): non-profit groups that work at a local level to improve life for residents. The focus is on building equality across society in all streams – health care, environment, quality of education, access to technology, access to spaces and information for the disabled, to name but a few.

Detainee or detained: an adult or minor subject to an Order for Detention under section A55.

Family: (a) parent(s) or legal guardian(s) (p/lg) and a dependent minor. This may also include family members as defined by IRPR and situations where siblings are travelling together without their p/lg.

Housed minor: a foreign national, permanent resident or Canadian citizen who, after the completion of a BIOC interview, is kept with their detained p/lg at an IHC at the p/lg's request. A housed minor is not subject to an Order for Detention and is free to remain in and re-enter the IHC subject to the p/lg's consent and in accordance with the rules and procedures of that facility.

Minor: defined under the IRPA and the CRC as a person under the age of 18. In some provinces, a youth aged 16 or 17 is not considered a minor (see Annex D). However, this does not change the fact that they are considered to be a minor in the federal context (subsection R249).

Non-compliance: failure or refusal to comply, as with a law, regulation, or term of a condition.

Segregation (administrative): the separation of persons to prevent association with others.

Unaccompanied minor: a minor or siblings travelling together who do(es) not arrive in Canada as a member of a family or to join such a person.

4. OBJECTIVES

1. To stop detaining or housing minors and separating families, except in extremely limited circumstances.
2. To actively and continuously seek ATDs or AAMs when unconditional release is inappropriate.
3. To preserve the family unit for overall well-being and continuity of care.
4. To ensure that the detention or housing of a minor or the separation of a minor from their detained p/lg is for the shortest time possible.
5. To never place minors in segregation (or segregate them) at an IHC or provincial or any other facility.

5. LEGISLATIVE AUTHORITIES

Section A55 contains the arrest and detention provisions applicable to both adults and minors:

A55(1) and (2) – A designated officer may arrest and detain, with (1) or without (2) a warrant, when:

- the officer has reasonable grounds to believe a person is inadmissible to Canada and
 - is a danger to the public; or
 - is unlikely to appear for an immigration process (examination, admissibility hearing, minister's delegate review, or removal); or

- the officer is not satisfied of the identity of a foreign national in the course of any procedure under the IRPA.

A55(3) – A designated CBSA officer may detain a person on entry into Canada (limited to port of entry [POE] cases) when:

- the officer considers it necessary to do so in order for the examination to be completed; or
- the officer has reasonable grounds to suspect that the permanent resident or foreign national is inadmissible on grounds of security, violating human or international rights, serious criminality, criminality or organized criminality.

A55(3.1) – It is mandatory to arrest and detain a designated foreign national who is 16 years of age or older on the day of the arrival that is subject of the designation made by the Minister of Public Safety and Emergency Preparedness pursuant to subsection A20.1(1).

Section A60 enshrines the principle that the detention of a minor is a measure of last resort while concurrently legislating that the BIOC must always be considered:

For the purposes of this Division, it is affirmed as a principle that a minor child shall be detained only as a measure of last resort, taking into account the other applicable grounds and criteria including the best interests of the child.

In addition, **section R249** outlines special considerations on the detention of minors:

- (a) the availability of alternative arrangements with local childcare agencies or child protection services for the care and protection of the minor children;
- (b) the anticipated length of detention;
- (c) the risk of continued control by the human smugglers or traffickers who brought the children to Canada;
- (d) the type of detention facility envisaged and the conditions of detention;
- (e) the availability of accommodation that allows for the segregation of the minor children from adult detainees who are not the parent of or the adult legally responsible for the detained or housed minor children; and
- (f) the availability of services in the detention facility, including education, counselling and recreation.

Other factors are prescribed in **section R248** for consideration before a decision is made on detention or release if it is determined that there are grounds for detention:

- (a) the reason for detention;
- (b) the length of time in detention;
- (c) whether there are any elements that can assist in determining the length of time that detention is likely to continue and, if so, that length of time;
- (d) any unexplained delays or unexplained lack of diligence caused by the Department or the person concerned;
- (e) the existence of alternatives to detention; and
- (f) the best interests of a directly affected child who is under 18 years of age.

Subsection R248.1 (1) states that for the purpose of paragraph R248(f) and for the application, in respect of children who are under 18 years of age, of the principle affirmed in section A60 of the Act, that

a minor child shall be detained only as a measure of last resort, the following factors must be considered when determining the best interests of the child:

- (a) the child's physical, emotional and psychological well-being;
- (b) the child's healthcare and educational needs;
- (c) the importance of maintaining relationships and the stability of the family environment, and the possible effect on the child of disrupting those relationships or that stability;
- (d) the care, protection and safety needs of the child; and
- (e) the child's views and preferences, provided the child is capable of forming their own views or expressing their preferences, taking into consideration the child's age and maturity.

In addition, **subsection R248.1(2)** specifies that for the purpose of paragraph R248(f), the level of dependency of the child on the person there are grounds to detain shall also be considered when determining the best interests of the child.

The BIOC factors are binding on all relevant decision makers (border service officers, inland enforcement officers, hearings officers and hearings advisors, Immigration Division members of the IRB, etc.). Note that paragraph R248(f) enshrined recognition of the best interests of a non-detained (e.g. housed) child into law, which was a legislative gap. This amendment and list of factors do not suggest that the BIOC outweigh all other factors of the case: the BIOC are primary factors to be weighed against other primary factors, including those listed in paragraphs R248(a) to R248(e).

The following is a possible scenario that may be encountered in a BIOC interview:

- An irregular arrival of a family consisting of a father, mother, and two biological children (ages 9 and 10) seeking asylum in Canada.
- The father has a bona fide identity document, while the other family members do not.
- Mother and children are cooperative; no credibility concerns.
- The father admits to foreign criminal convictions with a potential for a subsection A36(1) inadmissibility and with potential violence; information on convictions is unavailable.

Sub-scenario 1: Nobody in the family speaks English or French; through an interpreter, the parents indicate no next of kin in Canada and are adamant that they stay together. No visible signs of distress are observed despite a year spent at a refugee camp.

BIOC determination 1: The CBSA officer weighs the case against prescribed legislation, specifically paragraph R249(d)(f) and subsections R248(1) and (2), and arrives at the decision to detain the father, as an ATD would not be appropriate, and to keep the family together at an IHC. An ATD review will be conducted as more information becomes available.

Sub-scenario 2: Each child is interviewed separately from their parents. Both children speak some English; they express the desire to go to school, indicate a degree of domestic violence and state that their mother's sister (a successful refugee claimant) lives in Montreal.

BIOC determination 2: The CBSA officer considers all facets of the case, specifically paragraphs R249(a) and R248(f) and subsection R248(1), and decides to detain the father at the IHC and release the mother and children. An ATD review will be conducted on the father as more information becomes available.

6. FUNDAMENTAL CONSIDERATIONS

1. Detention of a minor is a measure of last resort (see section A60 above). Detention is to be avoided to the greatest extent possible and applied for the shortest period possible.
2. AAMs and/or ATDs must always be considered first for minors and their p/lg and be actively pursued until release.
3. Family unity is to be highly factored in all detention-related decisions.
4. The BIOC are a primary consideration and may only be outweighed by other significant considerations such as public safety (i.e. flight risk, paragraphs R245(a) to (f), and danger to the public, section R246) or national security.
5. Detention may be considered when historic, consistent and willful breaches of IRPA or IRPR are demonstrated.
6. The BIOC assessment is to be conducted prior to any decision to detain or house a minor or separate a minor from their detained p/lg and should be conducted on a continual basis (subsection 8(2)).
7. A minor may be detained or housed if no suitable ATDs or AAMs can be found, provided that:
 - a) it is in the BIOC to be housed with their p/lg;
 - b) there are well-founded reasons to believe the minor is a danger to the public;
 - c) if identity is a serious concern, there are well-founded reasons to believe the minor or their p/lg may represent a risk to public safety and national security; and
 - d) the family is scheduled or can be scheduled for removal within seven days and has demonstrated a consistent pattern of non-compliance and willful breaches of conditions or violations of IRPA or IRPR, elevating the risk of them being unlikely to appear for removal.

7. THE BEST INTERESTS OF THE CHILD (BIOC)

Mental health evidence is clear that both detention and family separation have detrimental consequences for children's well-being. The BIOC are best achieved when children are united with their families in community-based, non-custodial settings, where possible.

1. On all detention decisions that affect minors, CBSA officers must consider the BIOC as a primary consideration as per section R248.
2. The BIOC are to be determined separately and prior to the decision to detain the p/lg. They need to be reviewed on an ongoing basis (including observations and day-to-day interactions) based on the legal situation and well-being of the minor and their p/lg.
3. The BIOC are to be determined on a case-by-case basis taking all relevant information related to the minor's situation into account.
4. A copy of the BIOC interview form (drafted for trial period) shall be provided to the p/lg and as appropriate to the IRB designated representative, child advocate, private counsel and Child Protection Services.
5. On the issue of handcuffing, please refer to section 10.4, points a to c.
6. There should be an assessment by a provincial authority that considers the child's welfare and the BIOC as applicable.

8. FAMILY UNITY

1. Every effort must be made to preserve the family unit for overall well-being and continuity of care.

2. Families must be released, with or without conditions, to the greatest extent possible. Where unconditional release is not possible, an ATD or AAM should be used.
 - a) When p/lg are detained, and public safety (i.e. flight risk, section R245, and danger to the public, section R246) and national security are not an issue, officers must make every effort to find an appropriate ATD or AAM.
 - b) When public safety (i.e. flight risk, section R245, and danger to the public, section R246) and/or national security are an issue, every effort shall be made to find an ATD or AAM that sufficiently mitigates the concerns.

Below are possible scenarios that may be encountered by CBSA officers:

Scenario 1 – When removal is not or cannot be scheduled within seven days, detention must be avoided and the family must be released using an ATD to the greatest extent possible.

Scenario 2 – May detain one parent and release the other with the minor. This may be considered when one p/lg is a danger to the public or a security concern such that an ATD for both parents is not appropriate.

3. Though it is crucial to maintain the family unit, there may be exceptional circumstances where it is not possible. When an ATD is not appropriate, CBSA officers shall work with the p/lg to find a solution for the temporary care of the minor, such as an AAM, if this is in the BIOC. Contact information of the organization and/or person charged with temporary care of the minor must be indicated in the minor's paper file as well as the AAM process that must be created in the National Case Management System (NCMS). Subject to their level of comprehension, the minor should be given contact information for Legal Aid and a Provincial Child Advocate (where available).

Below are additional scenarios that may be encountered by CBSA officers:

Scenario 1 – When one p/lg is deemed appropriate for release, while the other is not, the minor will join the released p/lg if this is in the BIOC.

Scenario 2 – When neither p/lg is deemed appropriate for release on an ATD, the minor may be released upon the p/lg's written consent on an AAM (e.g. relative, trusted friend/community member) or housed at an IHC with their detained p/lg if this is in the BIOC.

Scenario 3 – When neither p/lg is deemed appropriate for release and a relative or trusted friend/community member is not available to support the custody of the minor, the officer shall contact Child Protection Services for advice on the temporary care of the minor until one detained p/lg is released, or the minor shall accompany their p/lg at an IHC (where available) if it is in the BIOC.

Scenario 4 – Officers may detain the p/lg and house the minor at an IHC if removal is scheduled within seven days (where travel documents are in order) and release is not a viable option (e.g. historic, consistent and willful breaches of conditions or violations of IRPA or IRPR).

4. If a minor is separated from their family for custodial placement through an AAM, access to the p/lg must be facilitated. The CBSA officer must inform the minor of the steps being taken, unless

the provision of the information is contrary to the BIOC and compromises the safety and well-being of the minor.

9. CHILD PROTECTION SERVICES (CPS)

1. CPS are responsible for the safety, well-being and familial stability of children, which may involve investigations into abuse or neglect of children (see Annex C). They can also connect families to community resources to address issues like mental health, settlement and temporary accommodations and provide guidance and advice on the BIOC. Most CBOs are also equipped to provide these services.
2. CBSA officers shall consult the p/lg prior to contacting CPS unless the situation falls within the duty to report under child welfare legislation. Accordingly, CBSA officers must contact CPS if abuse, neglect or other serious concerns are suspected or identified in the BIOC interview or any time thereafter. Additional reasons to contact CPS are as follows:
 - a) trauma experienced by a minor;
 - b) safety issues identified while in custody due to abuse and/or neglect by p/lg; and
 - c) parents may be facing criminal charges and, due to the nature of the charges, may be separated from their children (i.e. incarcerated in a separate institution).

10. ARREST AND DETENTION OF A MINOR

1. Please refer to ENF 20 for details on arrest and detention. Regardless of the age of the person arrested, Notice of Arrest (report), Order for Detention (form), National Risk Assessment for Detention and Detainee Medical Needs forms must be completed for a detention made under section A55. Officers must clearly articulate reasons and grounds for arrest and detention when completing the documents and be mindful of the utmost importance of taking concise and complete notes supporting their decisions and actions.
2. The CBSA will continue to conduct the BIOC interview to inform the position taken at IRB reviews until release.
3. When possible, the initial decision maker who decides to arrest or detain the minor shall take the lead in the active case management of the minor's file throughout the immigration enforcement stream for the best case oversight.
4. CBSA officers must ensure the security, safety, and protection of the minor under arrest/detention. In addition,
 - a) minors shall not be handcuffed **except in extreme circumstances**. Officers must assess the risk and act on reasonable grounds when deciding to handcuff a minor. Extreme circumstances are limited to danger to the public, threat posed to officers or the public and self-harm;
 - b) CBSA officers will not handcuff detained p/lg in front of their children, other than under extreme circumstances (as above) or if they have a violent criminal past; and
 - c) CBSA officers will not conduct personal searches or frisking of a detained p/lg in front of a minor other than under extreme circumstances (as above), or if they have a violent criminal past. Officers must make every effort to conduct searches outside the view of the minor, unless doing so would cause more distress to the child.

11. UNACCOMPANIED MINORS

1. Unaccompanied minors shall never be detained or housed at an IHC unless it is for an operational reason (e.g. POE arrival at 3:00 am, outside of normal business hours) and an ATD or AAM cannot be found. In the event that an unaccompanied minor is held at an IHC for more than 24 hours, a CBSA officer must conduct a BIOC interview for the purpose of release. Unaccompanied minors shall also have heightened supervision (IHC staff) and access to guards, NGO staff and other supports as necessary.
2. The CBSA will notify the CRC as soon as possible; refer to section 15.4.
3. If the presence of smugglers or traffickers is a concern, the matter must be discussed with CPS to ensure that adequate protection is provided (refer to Annex C).
4. In most cases, unaccompanied minors are to be released in the care of a CBO or CPS (e.g. local Children's Aid Society as appropriate) if they do not have a relative or trusted community link. While an unaccompanied minor is in their custody, the organization will make every effort to ensure that the minor meets the CBSA's reporting requirements. Contact information of the organization, relative or trusted community member charged with temporary care of the minor or an IRB designated representative or lawyer must be indicated in the minor's file and in NCMS via the AAM process.

12. HOUSING – ACCOMPANIED MINORS

1. Accompanied minors shall be housed at an IHC (where available) only if it has been deemed to be in the BIOC, and families must not be separated within the detention facility when possible. The CBSA officer must note the ATDs considered for one or both of the p/lg before concluding that housing was absolutely necessary for the minor and/or family unity.
2. The CBSA officer must explain to the p/lg that they may accept or refuse housing and that their decision will not affect their immigration case; interpreter services must be offered to the p/lg to enable clarity and full comprehension of the discussion. A CBSA supervisor or superintendent and the minor's p/lg must provide their written consent prior to housing at an IHC (consult local IHC intake forms).
3. Documentation and system data entry
 Documentation must be completed for accompanied minors who are foreign nationals, permanent residents or Canadian citizens.
 - In NCMS, create a **Housed Process** in order to add notes on the minor's health condition and/or medical needs, including dietary.
 - Minors housed or placed in an AAM must be given a UCI to enable monitoring and tracking in the immigration detention system.
4. A p/lg may withdraw their consent at any time by informing the CBSA in writing. The CBSA may also withdraw their consent under extreme circumstances, such as:
 - inability of the p/lg to care for and ensure control of the minor, resulting in harm to the minor and subject to duty of care referral under child welfare legislation; or
 - an AAM becoming available for the accompanied the minor, even after the 48-hour detention review.
5. If a CBSA officer considers withdrawing consent, they must justify this in writing, discuss with the p/lg, and give them an opportunity to remedy the circumstances.
6. CBSA officers shall conduct a weekly case review to reassess ATDs/AAMs and the BIOC of accompanied minors.

13. SERVICES IN AN IHC

In accordance with international standards, IHCs offer a secure and sanitary environment, proper nutrition, access to fresh air, access to healthcare services (including psychology and psychiatric supports) and recreation. Furthermore,

1. Minors shall be housed with both p/lg to the greatest extent possible in order to preserve family unit.
2. The IHC shall adhere to national Standard Operating Procedures for accompanied and unaccompanied minors, and the IHC manager will be responsible for verifying that the national procedures are adhered to when a minor has been admitted for detention or housing.
3. By provincial laws, minors must go to school starting at the age of five or six and until they are between 16 and 18, depending on the province or territory. Qualified teachers will provide in-class education for minors who are at an IHC after seven days and until they are released.

14. TRANSPORTATION AND TRAVEL

The CBSA Enforcement Manual, Part 6, Chapter 8, Vehicular Transport of Persons under Arrest or Detention, is applicable to detained or housed minors. It guarantees the safety and security of individuals in CBSA custody. Operational Bulletin PRG-2015-34 Transportation of Non-Detained Persons in Agency Vehicles while Administering CBSA Program Legislation is also relevant. The p/lg is responsible for the care and control of their children; therefore, they must be kept with them at all times, including situations when the p/lg or minor must leave the IHC for various reasons: detention review, medical appointment, court proceeding, immigration examination, etc. NOTE: Section 10 applies to this section.

15. REPORTING AND NOTIFICATION

1. Operational Bulletin OPS-2017-03

All situations involving the detention, housing or separation of the family unit must be reported immediately to the Border Operations Centre (BOC) as a significant event under the incident reporting criteria "Child Welfare".

- a) The regional Single Reporting Tool (SRT) Operational Bulletin OPS-2017-03 to the BOC must contain the following information regarding the case:
 - i. tombstone data for the minor involved (UCI, age, gender, citizenship);
 - ii. UCI for accompanying parent or guardian (if minor is accompanied); and
 - iii. detailed synopsis of the case, including whether the minor was accompanied or unaccompanied, detained (and grounds for detention), housed (and housed with whom), or separated (including AAM) from a detained p/lg and the detention facility where they are held.
- b) The SRT must contain the information that was considered during the decision-making process:
 - o how the BIOC was assessed and what outcome of the assessment was (this is relevant for all instances involving minors, whether minors are detained, housed or separated from their detained p/lg).
- c) The SRT must also contain the information considered regarding actions taken to mitigate detention of minors or their p/lg:
 - o how and which ATDs and AAMs were considered in order to minimize the detention or housing of children or the separation of children from their p/lg.
- d) Once the BIOC has been conducted and ATDs and AAMs have been considered, and a minor is detained or housed in a detention facility or separated from a detained p/lg, the CBSA officer (decision maker) must report the case to the BOC as soon as possible.

- e) Superintendents and managers shall ensure that a notification is sent to the BOC as outlined above.

2. **Operational Bulletin PRG-2019-05**

Officers are required to record information in the NCMS using the “Alternative Arrangement for Minor” process. For data entry procedures on an alternative arrangement and associate accompanying party, please refer to the Operational Bulletin and Standard Operating Procedures. When a minor is placed in an alternative arrangement **directly from the POE**, it is imperative that the case details be sent to the office responsible for the NCMS data entry. For statistical purposes, information (e.g. new processes and updates) must be entered in a timely manner.

- 3. Aggregate reporting on minors will be part of the quarterly online publication of detention program statistics. It will also include the separation of minors.
- 4. Upon admission of an unaccompanied minor at an IHC, the CBSA officer will notify the CRC in writing as soon as possible by sending an email message to IDMP@REDCROSS.CA. In the subject line, indicate “Unaccompanied Minor” and the facility or location where the minor is being held. The CRC must inform the CBSA immediately if they intend to conduct a monitoring visit with the minor in order for the CBSA to obtain the required consent from CPS (as the authority for minors) in a timely manner for the visit.

Annex C – Child Protection Services and Family Centres

- Atlantic
 - Nova Scotia Community Services Offices with Child Welfare Services (17 district offices)
 - New Brunswick Child Protection, 1-888-992-2873 or after-hours emergency services at 1-800-442-9799 (8 regional sub-districts)
 - Newfoundland and Labrador Child Protection Services (4 regional health authorities)
- Quebec
 - Association des centres jeunesse du Québec (16 administrative regions)
 - Centre jeunesse de Laval, 450-975-4000
 - Centre jeunesse de Montréal, 514-896-3100
 - Batshaw Youth and Family Centres (Montréal), 514-935-6196
 - Centre jeunesse de l'Estrie, 819-566-4121
 - Centre jeunesse de la Montérégie, 450-679-0140
 - Programme régional d'accueil et d'intégration des demandeurs d'asile (PRAIDA), 514-731-8531
- Northern Ontario
 - Ontario Association of Children's Aid Societies (Ottawa, Cornwall, Lansdowne and Prescott)
 - Ontario Association of Children's Aid Societies (Thunder Bay, Sault Ste. Marie and Fort Francis)
- Greater Toronto Area
 - Ontario Association of Children's Aid Societies (47 provincial societies)
 - Children's Aid Society of Toronto, 416-924-4640
 - Catholic Children's Aid Society of Toronto, 416-395-1500
 - Jewish Family and Child (Toronto), 416-638-7800
 - Peel Children's Aid Society, 888-700-0996
- Southern Ontario
 - Chatham–Kent Children's Services, 519-352-0440 (Chatham, Blenheim, Bothwell, Chatham, Chatham–Kent, Dresden, Erie Beach, Eriau, Highgate, Ridgetown, Thamesville, Tilbury, Wallaceburg, Wheatley)
 - Children's Aid Society of London and Middlesex, 888-661-6167 (Adelaide, Ailsa Craig, Caradoc, East Williams, Ekfrid, Glencoe, London, Lucan Biddulph, McGillivray, Metcalfe, Middlesex, Middlesex Centre, Mosa, Newbury, North Dorchester, Parkhill, Strathroy, Wardsville, West Nissouri, West Williams)
 - Children's Aid Society of Oxford County, 519-539-6176 (Blandford-Blenheim, East Zorra-Tavistock, Ingersoll, Norwich, Oxford, South-West Oxford, Tillsonburg, Woodstock, Zorra)
 - Family and Children's Services Niagara, 888-937-7731 (Fort Erie, Grimsby, Lincoln, Niagara, Niagara Falls, Niagara-on-the-Lake, Pelham, Port Colborne, St. Catharines, Thorold, Wainfleet, Welland, West Lincoln)
 - Family and Children's Services of St. Thomas and Elgin County, 519-631-1492 (Aylmer, Bayham, Belmont, Central Elgin, Dutton Dunwich, Elgin, Malahide, Port Stanley, Southwold, St. Thomas, Vienna, West Elgin, West Lorne)

- Sarnia-Lambton Children's Aid Society, 519-336-0623 (Alvinston, Arkona, Bosanquet, Brooke, Dawn-Euphemia, Enniskillen, Forest, Grand Bend, Lambton, Mooretown, Oil Springs, Petrolia, Plympton, Point Edward, Sarnia, Sombra, Thedford, Warwick, Wyoming)
- The Children's Aid Society of Haldimand and Norfolk, 519-587-5437 / 888-227-5437 (Delhi, Dunnville, Haldimand, Haldimand-Norfolk, Nanticoke, Norfolk, Simcoe, Townsend)
- Windsor-Essex Children's Aid Society, 800-265-5609 (Amherstburg, Essex, Kingsville, Lakeshore, LaSalle, Leamington, Pelee Island, Tecumseh, Windsor)
- **Prairies**
 - Alberta Children's Services, 1-800-387-5437 (several service delivery locations)
 - Saskatchewan Social Services Offices (several locations), after-hours crisis centres: Prince Albert – 306-764-1011, Saskatoon – 306-933-6200, Regina – 306-569-2724
 - Manitoba Child and Family Services, 1-866-345-9241 (several Designated Intake Agencies)
- **Pacific**
 - Ministry of Children and Family Development (13 offices)
 - Ministry of Children and Family Development (Vancouver), 604-660-4927 or 310-1234

Annex D – Provincial Definitions of a Minor

In Canada, the definition of a minor child varies by province as indicated in the table below.

Province	Definition of minor child	Definition of minor for child protection purposes
<u>British Columbia</u>	Person under 19 years	Same
<u>Alberta</u>	Person under 18 years	Same
<u>Saskatchewan</u>	Unmarried person under 16 years	Same
<u>Manitoba</u>	Person under 18 years	Same
<u>Ontario</u>	Person under 18 years	“child” means a person under the age of 16
<u>Quebec</u>	Person under 18 years	Same
<u>Nova Scotia</u>	Person under 19 years	“child” means a person under the age of 16
<u>New Brunswick</u>	Person under 19 years	“child” means a person under the age of 16
<u>Newfoundland</u>	Person under 16 years (youth defined as a person who is 16 years or older, but under the age of 18)	Same
<u>Prince Edward Island</u>	Person under 18 years	Same
<u>Northwest Territories</u>	Person under 19 years	“child” means a person under the age of 16
<u>Yukon</u>	Person under 19 years	“child” means a person under the age of 16
<u>Nunavut</u>	Person under 19 years	“child” means a person under the age of 16



Canada Border
Services Agency

Agence des services
frontaliers du Canada



NCMS Application **Release Notes –** **NCMS Version** **14.2.4**

Release Date:
January 30, 2018

Enterprise Architecture,
Information Management &
Common Services,
National Headquarters

PROTECTION SERVICE INTEGRITY

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INTEGRITY

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Canada

These release notes outline the fixes that have been made to NCMS for release 14.2.4 scheduled for January 30, 2018.

Business Rules

- New National Risk Assessment for Detention (NRAD) dispositions, with the appropriate NCMS business rules validation, have been added to the NRAD event within the Detention Tracking process.

Note: the new dispositions shall be used starting February 12, 2018. The original NRAD dispositions will remain in NCMS for historical data.

New NRAD Dispositions	Original NRAD Dispositions
Detention Placement Assessment: 0 to 4 points	Detention Risk Assessment Completed: Low Risk
Detention Placement Assessment: 5 to 9 points	Detention Risk Assessment Completed: Medium Risk
Detention Placement Assessment: 10 points and more	Detention Risk Assessment Completed: High Risk
Detention Placement Assessment not completed	Detention Risk Assessment Not Completed



OPERATIONAL BULLETIN: PRG-2015-09

TITLE: National Risk Assessment for Detention (NRAD)

Date of Issue:	Mode(s):	Target Audience:	Area of Interest:
2015-02-11	All	BSOs, IEOs, Hearings Officers, IHCs	National

Details:

In efforts to ensure the safety and well-being of individuals detained under s. 55 of the *Immigration and Refugee Protection Act* (IRPA), the CBSA is implementing a National Risk Assessment for Detention (NRAD) which includes an initial risk assessment ([BSF 754](#)) and a risk reassessment ([BSF 754-1](#)).

The intent of this process is to strengthen the risk assessment for detention decisions, improve national consistency, and enhance the management of the detention program in a transparent and equitable way.

This Operational Bulletin (OB) provides guidance to officers with respect to the NRAD process.

The following process is intended to be used when an individual is arrested and detained under s. 55 of the IRPA.

Actions required:

Initial Risk Assessment:

- Using the BSF 754 the officer identifies whether an individual is categorized as high, medium or low risk based on an associated set of risk factors (outlined in the risk chart on page 4 of the BSF 754).
- In completing the BSF 754, the officer must take into consideration information contained in the completed 44 report and the detainee medical form ([BSF 674](#)), and should also consider any other relevant case-related information such as aggravating or mitigating factors.
- Based on the risk level and all elements considered, the officer must determine:
 - whether an alternative to detention is feasible (e.g. release with



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conditions such as reporting requirements, cash bond, telephone reporting or Toronto Bail Program); or

- the appropriate detention facility (Immigration Holding Centre, provincial facility or other non-CBSA facility).
- The officer must document all details surrounding the risk assessment in the Narrative section of the BSF 754. The details serve to support the officer's assessment and will be reviewed during a risk reassessment if/when one is required, as prescribed in this OB.
- The completed BSF 754 or a copy of the completed form must be placed in the individual's case file and, in the case of a detention at an IHC, provided to the facility for inclusion in the individual's IHC detention file.

Risk Reassessment:

- The risk reassessment (BSF 754-1) must be completed 60 days after the initial risk assessment or at any point where new information comes to light and/or a change in risk is observed by any officer within the detention continuum. It must be completed every 60 days thereafter (or sooner) if detention continues.
- The officer who has care and control of the file or is designated to perform this function must complete the BSF 754-1. The officer must review the initial risk assessment (completed BSF 754) and, where applicable, previous reassessments (completed BSF 754-1) and determine whether there have been changes in the risk factors. The reassessment must be supported by information to corroborate the status quo or change in the risk level. The officer completing the risk reassessment may, for example, consult with the investigation and/or hearings and/or removals officers as well as officials in provincial or other facilities, or the IHC manager depending on place of detention.
- Justification for a change in level of risk must be clearly documented in the "Narrative" section of the BSF 754-1.
- If the reassessment results in a different risk level, the officer must, prior to the 2nd 30-day detention review, provide a copy of all NRAD documentation to the hearings officer representing the CBSA on the case. This process is closely aligned with the legislated timeframes for detention reviews and may assist hearings officers in preparing for detention reviews.

Important Mental Health Considerations:



- During the completion of either the BSF 754 or BSF 754-1, there are specific factors an officer needs to consider in assessing the individual's mental health status.
- If "yes" is identified for any of the following high or medium risk factors, then the individual is considered "at risk" and needs to see a medical practitioner as soon as possible:

High risk factors

- Immediate risk of suicide

Medium risk factors

- Mental health issues (known/unknown/observed)
- Recent/Ongoing medical care
- Previous attempt of suicide/self-harm
- The officer should provide pertinent details on the mental health status in the Narrative section of the BSF 754 or the BSF 754-1, as the case may be, and document the action taken.
- As a matter of course, when an individual is admitted to a detention facility (IHC or non-CBSA facility), the individual will be assessed by a medical professional. The intent of the NRAD assessment of mental health status is to ensure priority is placed on an individual deemed to be at risk.

Actions required by the IHC:

- In cases where an individual at risk is placed in an IHC, the individual must be monitored at a minimum of every 15 minutes until the individual has been seen by a medical professional. Once the medical professional has assessed the individual, the IHC is expected to comply with treatment recommendations. In cases of a conflict between CBSA staff and the medical professional's recommendations, the CBSA shall initially comply and consult NHQ for further direction.

In a provincial facility or non-CBSA detention facility:

- In cases where an individual at risk is placed in a non-CBSA detention facility, the established protocols relating to "at risk" individuals at that specific facility will apply.



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Reminder: All currently detained cases must have an initial risk assessment on file, and risk reassessment if their detention has surpassed 60 days.

Contact Information:

Detentions Unit
Inland Enforcement Program Management
Enforcement and Intelligence Programs Directorate
Programs Branch

Any questions regarding this bulletin should be directed to the Detentions Unit via the following email address:

[CBSA-ASFC Hearings Detentions-Audiences Detentions.](#)

Approved by: Monik Beauregard, Director General
Enforcement and Intelligence Programs Directorate
Programs Branch

Effective Date: 2014-09-24

Updated: 2015-02-11
This bulletin replaces bulletin
PRG-2014-52

Additional bulletins:



OPERATIONAL BULLETIN: PRG-2018-07

TITLE: Procedure for the transfer and placement of an individual detained under the Immigration and Refugee Protection Act to an admitting facility

Date of Issue: 2018-02-12	Mode(s): All	Target Audience: BSOs, IEOs, Hearings Officers	Area of Interest: National
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Details:

The following operational bulletin (OB) is to be used when an individual is detained under section 55 of the *Immigration and Refugee Protection Act* (IRPA) and needs to be transferred to an admitting detention facility. Examples of admitting detention facilities include immigration holding centres (IHC) and provincial correctional facilities (PCF).

Prior to a detainee transfer, the ***National Risk Assessment for Detention (NRAD) [BSF754]*** and the ***Detainee Medical Needs (DMN) [BSF674]*** forms **must be completed**. These forms were recently revised and contain important information for the placement and management of detainees by detention facility staff.

The revised NRAD form and process helps ensure national consistency of detention placement decisions in a transparent and objective way. The form sets risk and vulnerability factors, which are assessed using a new point system that will direct an officer on appropriate detention placement.

The former Detainee Medical Form has been replaced by the DMN form. The intent of the DMN form is to ensure national consistency in the gathering and sharing of information regarding a detainee's perceived medical needs, with detention staff. It also contains emergency contact information. The form is not a medical diagnosis but a tool for officers to note any information pertaining to a detainee's self-identified health care needs, before the detainee has their initial consultation with a health care professional. The information may be used by health care professionals and other detention facility staff to assign priorities during the triage process and to increase the monitoring of detainees with possible medical or mental health conditions.

When an officer has made a detention decision under Section 55 of the IRPA that will lead to the admission of an individual to a detention facility, the NRAD and DMN forms must be completed. These forms must be reviewed, in accordance with the directive for detention oversight, by a designated regional management authority in

advance of transfer and admission to a detention facility.

The information contained in this OB has been added to Chapter ENF 20, Detention.

Actions required by border services officers and inland enforcement officers:

NRAD form

- The officer making the detention decision must complete the NRAD form [BSF754] in advance of transfer to an admitting facility and in advance of seeking management approval. If must identify the detainee's risk and vulnerability factors.
- Officers can use several information sources to fill out the NRAD form and should be cautious to ensure that information is valid and accurate. If third party information is being used, the officer should ensure that information can be disclosed at a detention or judicial review, if necessary. If the information cannot be disclosed at a detention or judicial review, the officer should rely on other information sources.
- In regions where an IHC exists, the IHC **must** be the default detention facility, if risk can be mitigated. In regions where an IHC exists, the IHC manager, or other designated EIOD authority, **must review** all detention placement decisions that led to the admittance of an individual to a provincial facility within the first 24 hours of detention, or as soon as practical, but prior to the first detention review.
- The review will consist of ensuring that the appropriate detention placement decision has been made, and that the individual's risk cannot be mitigated within the IHC. EIOD maintains the authority to transfer an individual to the IHC if they believe the individuals risk can be mitigated in the IHC.
- Each completed NRAD form **must be placed** in the detainee's case file and a copy of the form must be provided to: the detainee (by hand, by mail or electronically); and the IHC or the PCF. Each completed NRAD form **must be saved in GCMS** under the detainee's UCI:
 - Clients>Documents>ID Supporting documents sub tab;
 - Create a new record;
 - Select the following options:
 - Type: *CDN Immigration Doc*;
 - Sub Type: Client Submission,
 - Document #: BSF754;
 - Country of Issue: Canada;
 - Document Name: National Risk Assessment for Detention;
 - Complete the Issue Date;
 - Upload or scan the form to GCMS.

- An NRAD event **must be completed** under the Immigration Hold tab in the National Case Management System (NCMS). Changes were made to enable the NCMS to capture NRAD total scores and vulnerable groups.
- Regardless of the place of detention, a subsequent assessment using the NRAD form must be completed within 60 days from the date of the initial risk assessment if the detention continues or sooner if the circumstances change, or a change in risk is observed (e.g. an incident). For detainees held in an IHC, the responsibility lies with officers working at the IHC. For detainees held in a detention facility elsewhere (e.g. a PCF), the responsibility lies with a detainee liaison officer or an officer designated to perform this function.

DMN form

- The officer making the detention decision **must fill out the DMN** form [BSF674] which must be completed before transfer to an admitting facility and before seeking management approval. All health-related information contained on the form is based on information given by the detainee. Its accuracy cannot be validated prior to a consultation with a health care professional.
- The form contains specific questions to capture self-identified mental health conditions (e.g. depression or bipolar disorder) and indicators (e.g. previous suicide attempt), which may indicate a predisposition to suicide and self-harm.
- Each completed DMN form **must be placed in the detainee's case file** and a copy of the form must be provided to: the detainee (by hand, by mail or electronically); and the IHC or the PCF. Each completed form **must be scanned and saved in GCMS** under the detainee's UCI:
 - Clients>Documents>ID Supporting documents sub tab;
 - Create a new record;
 - Select the following options:
 - Type: CDN Immigration Doc;
 - Sub Type: Client Submission,
 - Document #: BSF674;
 - Country of Issue: Canada;
 - Document Name: Detainee Medical Needs;
 - Complete the Issue Date;
 - Upload or scan the form to GCMS.
- Regardless of the place of detention, a subsequent assessment using the DMN form must be completed within 60 days from the initial assessment if the detention continues or sooner if the detainee self identifies a change in their medical condition or a possible change in medical condition is observed by any custodial staff. This is to ensure the form is always up to date in case the detainee needs to be quickly transferred to another detention facility. For detainees held in an IHC, the responsibility lies with officers working at the

IHC. For detainees held in a detention facility elsewhere (e.g. a PCF), the responsibility lies with a detainee liaison officer or an officer designated to perform this function.

- Management must ensure that detainee files are up to date by implementing periodic quality assurance.

Contact Information:

Detentions Unit
Detentions Transformation and Program Management Division
Enforcement and Intelligence Programs Directorate
Programs Branch

Any questions regarding this bulletin should be directed to the Detentions Unit via the following email address: Detention-Programs@cbsa-asfc.gc.ca

For more information on detention process pursuant to the IRPA, see Chapter [ENF 20, Detention](#).

Approved by: Leah Campbell
Acting Director
Enforcement and Intelligence Programs Directorate
Programs Branch

Effective Date: 2014-09-24

Updated: 2018-02-12

Additional bulletins:



OPERATIONAL BULLETIN: PRG-2018-23

TITLE: Immigration Detention Governance and Oversight

Date of Issue: 2018-06-01	Mode(s): All	Target Audience: Officers that administer and enforce the IRPA including, BSOs, IEOs, Hearings Officers, Regional Management	Area of Interest: National
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Details:

This Bulletin intends to reaffirm direction disseminated to regional staff in December 2017 and February 2018, concerning Immigration Detention Governance and Oversight.

To build on improvements to Canada's detention program, it is important that officers continue to be mindful of the weight a detention decision has on an individual's right to liberty, ensuring that the decision is tied to enforcement outcomes that are achievable, after all available alternatives to detention have been duly considered and applied or exhausted. For clarity, there must be ongoing, concrete efforts to achieve the desired enforcement outcome.

Henceforth, for the purposes of this bulletin, the term "continued detention" refers to the decision, following an arrest, to maintain detention and have the individual transferred to a detention facility.

Detention is and will continue to be a viable enforcement tool. Should an officer or manager determine that detention is justified and in line with authorities and policies in place, they should ensure complete alignment with the protocols and directives of this Bulletin, by documenting their decision and associated assessments. Despite the availability of Alternatives to detention, detention may continue to be required for some individuals.

The following provides clarification with regards to steps that all Officers and Regional Management must take when considering the continued detention of an individual under Section 55 of the *Immigration and Refugee Protection Act* (IRPA) and the subsequent decision on detention location.

The following measures have been in effect since December 21, 2017 and must be maintained:

- Officers **shall** ensure that all currently available **alternatives to detention (ATDs) are considered and factored** into each decision related to the potential detention of an individual under the IRPA (i.e. deposits, guarantee, the imposition of terms and conditions, in-person reporting, voice reporting (GTA only), Toronto Bail Program (GTA only)). Should alternatives to detention be deemed unsuitable, the Officer must justify, in writing, what ATDs were considered and how they were deemed unsuitable **prior** to seeking continued detention. When it is not possible to immediately complete the relevant forms, such as with a call from police, the officer's decision and rationale should be completed in writing as soon as possible. Officer notes must be clearly documented on the file and the relevant forms, such as the Notice of Arrest (NOA)(BSF561), must be completed.
- Should release on an ATD be deemed appropriate but it is not possible to effect release within a reasonable period of time (e.g. depositor not available, time needed to raise cash for deposit, release plan to be put into place, etc.) transfer to an admitting detention facility (e.g. Immigration Holding Centre (IHC) or Provincial Correctional Facility) may be warranted until release can be effected. In such cases, the proposed ATD should be clearly documented and release effected as soon as possible.
- In order to ensure management oversight and visibility of all detention cases, **all decisions to continue detention (Section 55 of the IRPA), detention placement decisions shall be reviewed by:**
 - a Superintendent (FB05) or higher regional authority for all Port of Entry cases; or,
 - an Inland Supervisor or Manager (FB05/FB06) or higher regional authority for all Inland cases
- This review assesses the continuation of detention, including the transfer of a detainee to an admitting detention facility, and does not review the validity of the initial decision to detain.

Note: The management personnel conducting the above review must have experience in the application of the IRPA, OR have completed relevant training. (e.g. Minister's delegate or other relevant training)

All decisions to continue detention and detention placement decisions **must** be reviewed by the above authorities **prior** to the admission of a detainee to an detention facility. Should one of the above authorities not be available onsite when continued detention is being considered, officers should contact management at another location or a duty manager who meets the requirements, including in another region as necessary. This consultation should be clearly documented to file and GCMS notes.

The review of a detention decision made under Section 55 of the IRPA may result in two outcomes:

- The reviewing authority concurs with the officer's decision to continue detention and the detention placement decision; or,
- The reviewing authority does not concur with the officer's decision to continue detention and makes a decision to release the person under Section 56 of the IRPA.

All management review and subsequent decisions must be documented to file in accordance with all of the below directions:

- The reviewing authority must undertake the following as part of the review of a continued detention decision and detention placement decision:
 - that there are reasonable **grounds to detain**, and that the decision to detain is in line with authorities prescribed under legislation and regulations;
 - that all currently available **alternatives to detention** have been considered, and documented evidence is on file to understand why available ATDs are considered unsuitable to mitigate risk factors that are present; and;
 - that the decision to continue detention is supported by **relevant and articulated facts** that are tied to the detention and release factors. The identified factors must be clearly linked to an enforcement or immigration outcome that is at risk of not being achieved without detention.
- That the placement of an individual within an IHC or a Provincial correctional facility is aligned to the considerations outlined in the National Risk Assessment for Detention form, and that complete documents and officer notes justifying placement are on file prior to the transfer of a detainee to an admitting detention facility. Where an IHC is accessible, detention placement **shall default to an IHC** unless local management determines that the admission presents an unacceptable level of risk. The presence of criminality **shall not** automatically send an individual to a Provincial correctional facility.
- The IHC has health care professionals to ensure that medical and mental health needs of detainees are cared for. Medical and mental health issues may only be a factor for placing an individual in a provincial institution if there is a realistic possibility that placing the individual in the IHC would endanger the individual or others at the IHC. Full service IHCs are located in Laval, Quebec and Mississauga, Ontario. A full service IHC will be opened in Surrey, BC in December, 2018. Suitability for the BCIHC remains the same until the new Surrey IHC opens.
- Regions in close proximity to an IHC may wish to consider transfer to an IHC

when feasible. Any such transfers must be done in consultation with the IHC and region receiving the detainee. Further policy regarding detainee transfers will be developed and communicated in the near future.

- When placement in a Provincial correctional facility is made, officers must clearly document why the level of risk posed by the individual could not be mitigated within an IHC;
- That **all** appropriate documentation is complete (e.g. Notice of Arrest; Order for Detention; National Risk Assessment for Detention; Detainee Medical Needs; Request for Admissibility Hearing / Detention Review pursuant to the Immigration Division Rules; Report Under Subsection 44(1); Minister's delegate review; Order of the Canada Border Services Agency to Deliver Inmate under A59; Detention Cell Log and Instructions; Detention Cell Log; and, notes to file, as relevant) and information is documented in GCMS and NCMS, as appropriate, and placed on the individual's file; and
- The Enforcement and Intelligence Operations Division (EIOD) in each respective region is responsible for the regional detentions program. Before the first detention review by the Immigration Division, should EIOD determine that the detention should no longer be continued, a decision to release under Section 56 may be rendered. EIOD may further render a new decision related to the detention placement of an individual.

To support the above process, **all Port of Entry and Inland Officers must:**

- Ensure that **all** detention decisions made under Section 55 of IRPA, which will result in admission to a detention facility, are reviewed by the appropriate authority, as per above;
- Ensure that **all** detention decisions are documented in detail on the individual's file, and that all associated forms are completed with relevant facts to justify the detention decision, including an analysis of why available alternatives to detention are not considered appropriate;
- Ensure that all officers' notes are documented in the file and in the officers' notebooks. The importance of appropriate and complete note taking is critical to judicial reviews at the Federal Court, Provincial Courts, detention reviews at the Immigration and Refugee Board, Incident reports, and any future file review;
- Complete and provide a copy of the following forms to the receiving detention facility: Order for Detention (BSF304), National Risk Assessment for Detention (BSF754), and Detainee Medical Needs (BSF674); and,
- Save these forms in GCMS as attachments. To ensure consistency and the ability to track, please save the National Risk Assessment for Detention (BSF754), and Detainee Medical Needs (BSF674); at the following path: Clients>Documents>ID Supporting documents sub tab. Then select type: CDN Immigration Doc, sub-

type: Client Submission and document #: BSF754 or BSF674.

The above actions are essential to ensuring the integrity of the detention system and the uniform application of current detention policies nationally. They will help ensure decisions that lead to continued detention in an IHC or a Provincial Correctional Facility are made in a manner that aligns with the objectives of the National Immigration Detention Framework, and can be applied nationally in a consistent manner.

This Bulletin maintains previous policy direction and must continue to be adhered to. Corresponding updates have been incorporated in relevant enforcement manuals (ENF20), operating procedures and training materials and will continue to be updated as needed.

The Detention Transformation & Program Management Division has developed various workplace scenarios to assist Officers and management in understanding this directive.

Contact Information:

Detention Unit
Detention Transformation and Program Management Division
Enforcement and Intelligence Programs Directorate
Programs Branch

Any questions regarding this bulletin should be directed to the Detention Unit via the following email address: Detention-Programs@cbsa-asfc.gc.ca

For more information on the detention process pursuant to the IRPA, see Chapter ENF 20, Detention.

For more information on the NIDF, please consult .

Approved by:

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Enforcement and Intelligence Programs
Programs Branch

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Additional bulletins: